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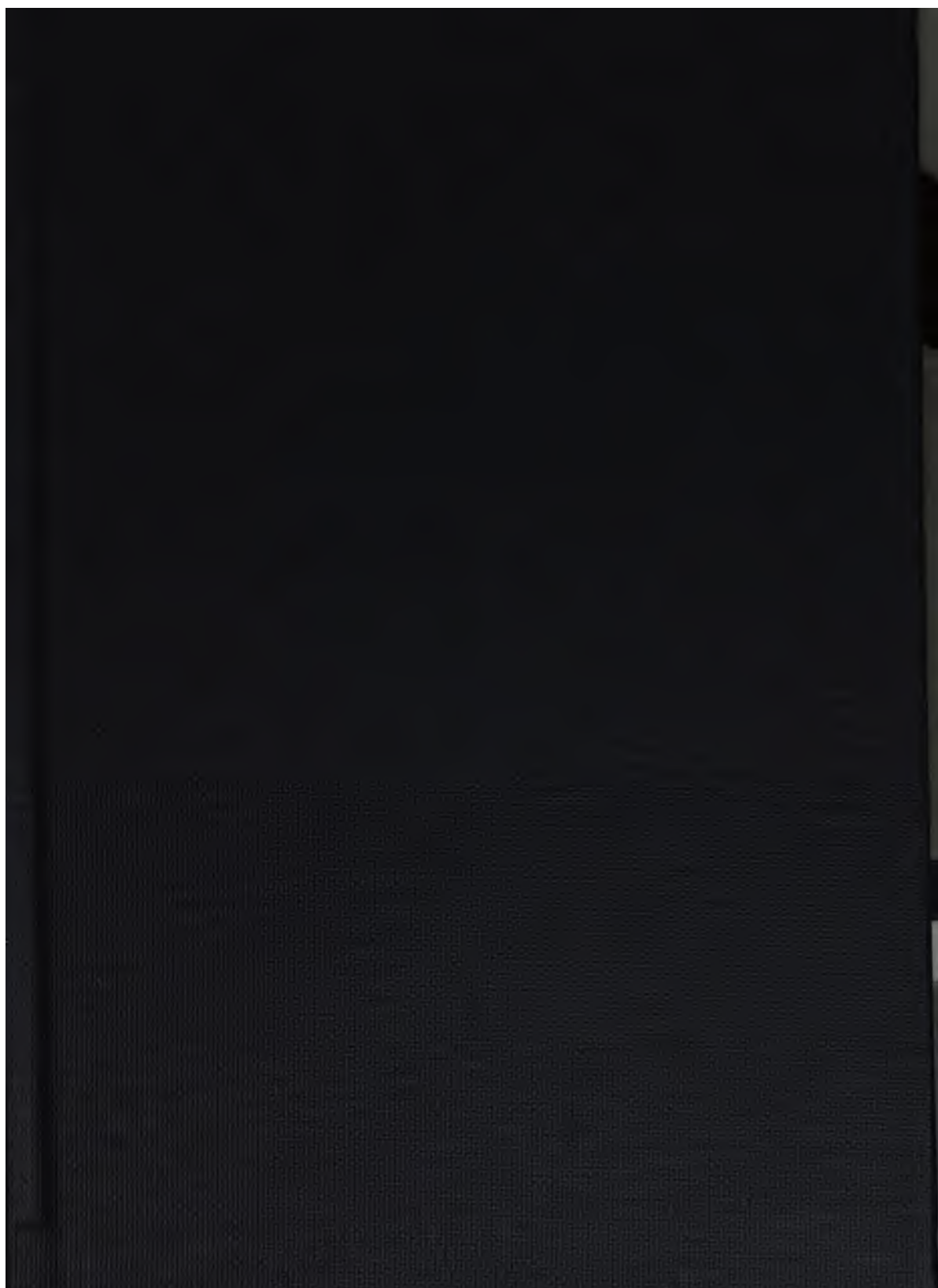
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THE BAY COLONY



George Wintthrop:

THE BAY COLONY

A CIVIL, RELIGIOUS AND SOCIAL HISTORY
OF THE MASSACHUSETTS COLONY

AND ITS

SETTLEMENTS FROM THE LANDING AT CAPE ANN IN
1624 TO THE DEATH OF GOVERNOR
WINTHROP IN 1649

BY

WILLIAM DUMMER NORTHEND, LL. D.



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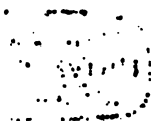
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TO
S. S. N.

INTRODUCTION.

THE early history of Massachusetts is a subject of intense interest to its people, and to the many scattered throughout the United States who are of Massachusetts lineage.

The causes which led to its settlement; the character of the men who laid the foundation stones; the governments they instituted; the provisions they made for religious worship and for the education of the people cannot be too often adverted to or studied.

As there are many facts of this period which have not been fully developed, and as writers upon it have differed in some important particulars, it has seemed to me that a history of the period, prepared from the records and other accepted authorities, would be of value. I have, accordingly, written this work with special reference to the subjects stated on the title-page. Yet the subjects named are so interwoven with the general history of the time, that it has been necessary to incorporate much of it in the work, as illustrating and explaining the main topics of investigation.

In passing upon the acts and opinions of men who lived three centuries ago, it should be borne in mind that since that time the world has advanced fast and far, so that it would be very unjust to judge them by any standard of the present day. Some conception of the extent of this advance can be gathered from the great change in opinion upon important subjects made within the lifetime of many now living. The acts of the fathers of this Commonwealth are to be judged by comparison with the acts of the best and wisest men of that period in other countries. Applying this test, I believe the men who settled Massachusetts will not suffer in the comparison.

The author desires to express his obligations to Mr. William P. Upham and to Mr. Theodore M. Osborne for advice and suggestions in the preparation of this work, and to Mrs. Mary E. Nevins for valuable assistance in its revision.

June, 1896.

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THE BAY COLONY

INTRODUCTORY CHAPTER.

A HISTORY of the Massachusetts Bay Colony would be incomplete without a reference to the several settlements made within the present limits of Massachusetts before the settlement at Cape Ann ; and to the characteristics of the different classes of settlers before their emigration, especially in their religious views.

It is difficult at the present day to realise the intensity of the religious convictions which governed the people of the mother country in the sixteenth and seventeenth centuries.

Much progress had been made in the great Reformation when Parliament, under Henry VIII., early in the sixteenth century, divorced the national Church from the Roman See, and substituted the reigning sovereign for the Pope of Rome, as its head. This act gave much satisfaction to the reformers.

But little change, however, was made except in the head of the Church, and most of the forms and ceremonies of the Roman Church were retained, a result which caused

great disappointment to the large numbers of the people who were zealous for a thorough reformation in ecclesiastical matters, and who were known as nonconformists, but in derision were called Puritans. They did not object to the doctrines of the national Church, and proposed no revolutionary action against it. They only desired and strove for reformation within the Church. It was the almost universal conviction of the English people that it was not compatible with the peace and safety of Church or Commonwealth that there should be different church establishments within the realm; and it is questionable to-day, whether, with the intensity of religious enthusiasm that existed, they were not correct in this. Toleration came, and was maintained, only when the religious zeal of the time abated.

So strong was the feeling of the reformers against the obnoxious forms and ceremonies of the Church, that many declined to observe them, and large numbers of the clergy refused to conform to them in their service. This called for laws to enforce attendance at church, and the observance of all its forms and ceremonies. As a result, hundreds of the clergy were dismissed from their livings, or "silenced," as it was called. The nonconformists regarded the forms and ceremonies as the inventions of men, not authorised by Scripture, and sinful to observe.

In the reign of Elizabeth, there sprang up a sect known as the Separatists, or Brownists, from the name of its founder. Its members defied the national Church, declaring that it was no true church, and that it "was sinful and

wrong to attend its worshipping assemblies, or hear the preaching of the Word of God therein." This sect was opposed by conformists and nonconformists alike; and they united in Parliament in the passage of severe laws against all who should refuse to acknowledge the supremacy of the national Church.

These laws were strictly enforced, and in 1608 a company of Separatists in Scrooby, in the north of England, finding they could not continue their form of worship in safety, expatriated themselves and went first to Amsterdam, and afterwards to Leyden, in Holland; where they were, from time to time, joined by others. They were known as the Pilgrims. In 1620 a portion of them emigrated from Leyden, and settled in what is now the town of Plymouth.

A brief reference to some of the principal historical facts of this settlement is rendered important by the fact that historians have confounded, to a considerable extent, its history with that of the Massachusetts Bay Colony.

About the year 1617, the Pilgrims at Leyden resolved to remove to some new country where they could constitute a community by themselves. Their attention was first called to Guiana, but they feared the climate was not suited to them. Afterwards, they concluded to emigrate to America, if they could procure a patent, the consent of King James, and aid from England; as they had not sufficient means for the undertaking. To promote these ends, a written statement, consisting of seven articles, was prepared and signed by John Robinson, the pastor, and

William Brewster, the elder of the Pilgrim Church, somewhat inconsistent with their professions of separation. The statement is as follows : *

"1. To the confession of faith published in the name of the Church of England, and to every article thereof, we do with the reformed churches where we live, and also elsewhere, assent wholly.

"2. As we do acknowledge the doctrine of faith there taught, so do we the fruits and effects of the same doctrine to the begetting of saving faith in thousands in the land (conformist and reformists as they are called), with whom also, as with our brethren, we do desire to keep spiritual communion in peace, and will practise in our parts all lawful things.

"3. The King's Majesty we acknowledge for supreme governor in his dominion in all causes and over all persons, and that none may decline or appeal from his authority or judgment in any cause whatsoever, but that in all things obedience is due unto him, either active, if the thing commanded be not against God's word, or passive, if it be, except pardon can be obtained.

"4. We judge it lawful for His Majesty to appoint bishops, civil overseers, or officers in authority under him, in the several provinces, dioceses, congregations or parishes, to oversee the churches and govern them civilly according to the laws of the land, unto whom they are in all things to give account, and by them to be ordered according to Godliness.

"5. The authority of the present bishops in the land we do acknowledge, so far forth as the same is indeed derived from His Majesty unto them and as they proceed in his name, whom we will also therein honour in all things and him in them.

"6. We believe that no synod, class, convocation, or assembly of ecclesiastical officers hath any power or authority at all, but as the same by the magistrate given unto them.

* Colonial papers, 1618.

"7. Lastly, we desire to give unto all superiors due honour, to preserve the unity of the spirit with all that fear God, to have peace with all men what in us lieth, and wherein we are to be instructed by any.

"Subscribed by

"JOHN ROBINSON

and

"WILLIAM BREWSTER."

An application was made to King James to grant them "freedom of religion," which he refused. "Yet thus far they prevailed, in sounding His Majesty's mind, that he would connive at them and not molest them, provided they carried themselves peaceably. But to allow or tolerate them by his public authority, under his seal, they found it would not be." *

An application was also made to the Council for Virginia for a patent. A reply addressed to Robinson and Brewster was made by Sir Edwin Sandys, for the Council, in which he writes: "The agents of your congregation, Robert Cushman and John Carver, have been in communication with divers select gentlemen of His Majesty's Council for Virginia; and, by the writing of seven articles, subscribed with your names, have given them that good degree of satisfaction, which has carried them on with a resolution to set forward your desire in the best sort that may be for your own and the public's good." He further writes, that "they have requested further time to confer with them that are to be interested in this action."†

* Bradford, 29.

† Bradford, 30.

Afterwards, further explanation was desired by some members of the Council, evidently in regard to the relation of the Pilgrim Church to the French reformed churches, with which churchmen in England were in sympathy.* Robinson and Brewster replied, in a letter of date January 27, 1617, that they agreed generally with the French reformed churches, "though some small differences be to be found in our practices, not at all in the substance of the things, but only in some accidental cir-

* In 1598, Henry IV. of France issued the Edict of Nantes, which recognised the reformed churches and authorised their worship in freedom in all places in which they had been established, with full amnesty to all members charged with offences against the established church; subject to certain conditions, the principal of which were: that they should observe the appointed festivals of the Roman Catholic Church and refrain from work on their days; that they should pay the regular tithes to the established church, but might raise money for their own clergy; that public religious meetings should only be held in established houses of worship; that religious exercises, without limit of the numbers in attendance, might be held in the house of a lord or noble, but only in the presence of the lord or noble—that all others might have religious exercises at home, but should never have more than thirty persons at one time present; and that they should obey the laws of the Roman Catholic Church with respect to consanguinity and relationship of parties making marriage contracts.

Subject to these conditions, the members of the reformed churches were to be in every respect, in the enjoyment of rights and privileges, on an equality with members of the established church. Careful provisions were made to protect them in the enjoyment of such rights and privileges. In all suits at law the members of the reformed churches were to have one-half the judges of their own faith; and liberal provisions for challenge of judges were made. The Edict remained in force for nearly a century. The members of the French reformed churches were styled Huguenots, intended as a name of reproach. The origin of the name is not known.

cumstances," some of which they mentioned. In the reply they write: "The oath of supremacy we shall willingly take if it be required of us, and that convenient satisfaction be not given by our taking the oath of allegiance." *

The significance of these declarations is seen from the fact that the members of the Council for Virginia, and of the company they relied upon for aid, were members of the English Church; and could not be expected to give aid and encouragement to professed Separatists.

No action seems to have been taken by the Council for Virginia until 1619.

In the spring of 1619, Cushman and Brewster were sent to England, in the words of Bradford, "to end with the Virginia Company as well as they could, and to procure a patent with as good and ample conditions as they might by any good means obtain, as also to treat and conclude with such merchants and other friends as had manifested their forwardness to provoke to, and adventure in this voyage." †

A patent was issued, by the advice of friends, to one John Wincob, instead of to the company, he intending to go with them. He did not go, the patent was never used, and its date and provisions are unknown. February 16, 1619, another patent was issued to John Pierce and his associates. This was never used.‡ Thomas Weston,

* Bradford, 34, 35.

† Ibid, 30.

‡ Pierce obtained, in 1621 and in 1622, other patents from the Council for New England; which in 1620 received a charter from the king, superseding the charter of the Council for Virginia. These patents were never used.

representing the company in London which was to furnish the means, proceeded to Leyden and conferred with Robinson and others, and advised immediate preparations for their departure. An agreement was drawn up and approved by Weston and by the Pilgrims, of date July 1, 1620. The agreement provided that every one who went over should have an interest in the project ; that everything should be carried on in common for seven years — “the capital and profits, viz. : the houses, lands, goods, and chattels be equally divided among the adventurers.” It was also provided in the articles of agreement that the houses and improved lands should belong to the planters at the end of seven years, and that the planters have two days of each week for their own private employment. This provision was subsequently stricken out.*

Preparations for departure were immediately commenced. The provision made for the voyage was insufficient for the emigration by the Pilgrims as a body, and probably it was not considered by them desirable for all to go at one time. It was agreed that “the youngest and strongest part” should go, and those who desired to go should offer themselves. The minor part only offered to go.† It was probably intended that those who went should act as pioneers, and make preparation for the migration of the rest.‡ It was further agreed that Rob-

* Young's Chron. of the Pilgrims, 82-85.

† Ibid, 383.

‡ Of those who went, “Bradford and Brewster alone are ascertained to have been members of the Scrooby congregation.” Palfrey, I. 160.

inson should remain in Leyden with the majority, and that the emigrants should be placed under the charge of Brewster, the ruling elder.

After much delay, the company, consisting of one hundred and two persons, set sail from Plymouth, England, in the *Mayflower*, September 6, 1620, and arrived at Cape Cod, November 11 o. s., 21 n. s.

They embarked without a patent, and apparently without any definite place of destination.

Explorations were made, and December 20 o. s., 30 n. s., Plymouth or New Plymouth, as it was then called, was decided upon for their settlement, and immediately after they commenced the building of houses. The first house built was about twenty feet square, called the "common house." It was finished and occupied in January. The same month, "the house was as full of beds as they could lie one by another." *

Of those who came over in the *Mayflower*, a portion, who had no sympathy with the Pilgrims in their religious views, were sent by the London Company.

The precise number of these is not known, yet it was so large, "it was thought meet and convenient by them in Holland that these strangers that were to go with them should appoint one thus to be joined with them (*i.e.*, Carver and Cushman previously appointed to oversee the purchases for the voyage), not so much for any great need of their help, as to avoid all suspicion or jealousy of any partiality." † How far these "strangers" were responsible

* Young's Chron. of the Pilgrims, 167, 178.

† Bradford, 56.

for the lack of unity shown on the voyage, is not known. In Bradford and Winslow's *Journal*, known as "*Mourt's Relation*," it is stated, "This day (November 11), before we came to harbour, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement, that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set our hands to this that follows, word for word."* Then follows the compact, as it is styled. We give in a note the comments of Dr. Young, compiler of *Young's Chronicles of the Pilgrims*, on the compact.†

There seems to have been no change in the mode of worship at Plymouth from that practised in Leyden. This caused great dissatisfaction among the members of the London Company; and they sent over one John Lyford, an Episcopal clergyman, to take charge of the

* *Young's Chron. of the Pilgrims*, 120.

† "Here for the first time in the world's history, the philosophical fiction of a social compact was realised in practice. And yet it seems to me that a great deal more has been discerned in this document than the signers contemplated. It is evident, from p. 95, that when they left Holland, they expected 'to become a body politic, using amongst themselves civil government, and to choose their own rulers from among themselves.' Their purpose in drawing up and signing this compact, was simply, as they state, to restrain certain of their number, who had manifested an unruly and factious disposition. This was the whole philosophy of the instrument, whatever may since have been discovered and deduced from it by astute civilians, philosophical historians, and imaginative orators." *Young's Chron. of the Pilgrims*, 120, n.

congregation. He came over with Winslow in the *Charity*, and arrived in March, 1624.

Cushman, in a letter dated January 24, 1623, wrote, referring to Lyford, "Mr. Winslow and myself gave way to his going to give content to some here." * Bradford refers to "the minister, Mr. John Lyford, whom a faction of the adventurers send, to hinder Mr. Robinson."

Robinson, in a letter to Brewster dated December 20, 1623, which was brought over by Winslow, speaks of a determination by members of the London Company to prevent his coming over, and says, "A notable experiment of this; they gave in your messenger's presence, constraining the company to promise that none of the money now gathered should be expended or employed to the help of any of us towards you."

In the same letter, he says, "Now touching the question propounded by you, I judge it not lawful for you, being a ruling elder, as Rom. XII., 7, 8, and I Tim. V., 17, opposed to the elders that teach and exhort and labour in the word and doctrine, to which the sacraments are annexed, to administer them, nor convenient if it were lawful." †

It was one of the principal complaints made by the London Company that the congregation had no minister to administer the sacraments, and that none had been administered during the three years the company had been at Plymouth. ‡

* Bradford, 160.

† Bradford, 166, 167.

‡ No sacraments were administered in the Plymouth Church until the settlement of Ralph Smith as its minister, in 1629.

Within a few months after Lyford's arrival, upon suspicion that letters, written by him and by one Oldham to their friends in England, contained unfriendly representations of the state of affairs in Plymouth, the governor went on board the ship in which the letters were to be taken over, opened the letters and retained some, substituting copies of them, and of others he took copies.

Bradford says many of the letters were "large" and "full of slanders and false accusations, tending not only to their prejudice but to their ruin and utter subversion." * This proceeding was kept secret for several weeks. The reason given was, "to let things ripen that they might the better discover their intents and see who were their adherents. And the rather because amongst the rest they found a letter of one of their confederates, in which was written that Mr. Oldham and Mr. Lyford intended a reformation in Church and Commonwealth; and, as soon as the ship was gone, they intended to join together and have the sacraments, etc." "And thinking they were now strong enough, they began to pick quarrels at everything." "But to cut things short, at length it grew to this issue, that Lyford with his accomplices without ever speaking one word either to the governor, church or elder, withdrew themselves and set up a public meeting apart on the Lord's day." Upon this the governor called a meeting of the whole company, and made charges against Lyford and Oldham, and produced and read the letters and copies obtained on board the ship, upon which they were con-

* Bradford, 173.

victed, and "the court censured them to be expelled the place; Oldham presently, though his wife and family had liberty to stay all winter, or longer till he could make provision to remove them comfortably. Lyford had liberty to stay six months." *

Oldham, with some associates, returned without leave in March succeeding. He made much disturbance by blustering threats, and was finally taken by force to the waterside, where a boat was ready to take him off. † Lyford, having given no satisfaction within the six months he was allowed to remain, was banished, when he went with some of his friends to Nantasket, to which place Oldham had preceded him. Charges of gross immorality were made against Lyford before he left, which were probably, at the least, exaggerated, as immediately after his banishment he was invited by Mr. White, who was influential in the settlement at Cape Ann, to go as minister to that place, which he did, and remained until the company there removed to Naumkeag, giving great satisfaction, and when he left to go to Virginia many of the company desired to go with him. Bradford says: "This storm being thus blown over, yet sundry sad effects followed the same, for the company of adventurers broke in pieces hereupon, and the greatest part wholly deserted the colony in regard of any further supplies or care of their subsistence. And not only so, but some of Lyford's and Oldham's friends and their adherents set out a ship on fishing on their own account, and getting the start of

* Bradford, 174, 175, 176, 182.

† Ibid, 189, 190.

the ships that came to the plantation, they took away their stage and other necessary provisions that they had made for fishing at Cape Ann the year before, at their great charge, and would not restore the same except they would fight for it. But the governor sent some of the planters to help the fishermen to build a new one, and so let them keep it." *

"Also by this ship † they, some of them, sent (in the

* Bradford, 196.

An amusing account of this transaction is given by Hubbard, probably obtained by him from Conant, as they were contemporaries. He says that in 1624, the Plymouth people built a fishing stage at Cape Ann,—that the next year they went there under the charge of Standish to cure fish, and found the stage occupied by a Mr. Hewes, employed by some of the west country merchants. Standish demanded possession of it, which was refused; that, "The dispute grew to be very hot, and high words were passed between them which might have ended in blows, if not in blood and slaughter, had not the prudence and moderation of Mr. Roger Conant, at that time there present, and Mr. Pierse's interposition, that lay just by with his ship, timely prevented. For Mr. Hewes had barricaded his company with hogsheads on the stagehead, while the demandants stood upon the land, and might easily have been cut off; but the ship's crew, by advise, promising to help them build another, the difference was thereby ended. Captain Standish had been bred a soldier in the Low Countries and never entered the school of our Saviour Christ, or of John Baptist, his harbinger, or if he was ever there, had forgot his first lessons, to offer violence to no man, and to part with the cloak rather than needlessly contend for the coat, though taken away without order. A little chimney is soon fired; so was the Plymouth captain, a man of very little stature, yet of a very hot and angry temper. The fire of his passion soon kindled and blown up into a flame by hot words, might easily have consumed all, had it not been seasonably quenched." Hubbard, 110.

† By this ship is intended the ship sent over by "some of Lyford's and Oldham's friends."

name of the rest)* certain reasons of their breaking off from the plantation." Two are given.

"First. Reason they charged them for dissembling with His Majesty in their petition, and with the adventurers about the French discipline, etc."

"Secondly, for receiving a man into their church, that in his confession renounced all, universal, national and diocesan churches, etc., by which (say they) it appears, that though they deny the name of Brownists, yet they practise the same, etc. And, therefore, they should sin against God in building up such a people."†

A compromise was made with the London Company in 1627, and all connection between the company and the people of Plymouth under the original contract was dissolved.‡

Upon an application to the Council for New England, a patent was granted, of date January 13, 1629,§ to William Bradford and "his heirs, associates, and assigns," of territory including what are now Bristol, Barnstable, and a large part of Plymouth Counties, known as the Old Colony. The patent also granted fifteen miles on each side of the Kennebec, including what is now the city of Augusta, for trading purposes.||

The patent gave only title to the land. A strong effort was made to obtain from the King, Charles I., a charter with powers of government, which failed. An unsuc-

* The London Company.

§ January 13, 1630, n. s.

† Bradford, 197.

|| Plymouth Colony laws, Brigham ed.

‡ Ibid, 212-232.

21-26.

cessful attempt was also made to obtain from Charles II. the desired charter.

In March, 1640, Bradford assigned the patent to the people of Plymouth, reserving to himself, with their consent, a tract of land.*

The officers of the government of Plymouth consisted of a governor and one assistant, until 1624, when four assistants were added; and in 1633 the number was increased to seven. They were elected annually. All matters of importance were submitted to the people in "town meeting assembled." These meetings were styled courts.

The population of Plymouth in 1627, as shown in a distribution of cattle that year, was one hundred and fifty-six. This number was increased to about two hundred and fifty by immigrants who arrived in 1629 and 1630. In the patent to Bradford in 1629, it is recited that the population was "near three hundred people." There was no immigration from Leyden to Plymouth after 1630.

From the time of the settlement in 1620 until 1633, the only inhabitants of the colony were the settlers of the town of Plymouth, some of whom had removed to Duxbury, Marshfield, and Eastham; and with the exception of this population of about two hundred and fifty, the entire colony was subsequently settled by people from Massachusetts Bay Colony, with few exceptions, representing the views and characteristics of the people of that colony. When the General Court, consisting of deputies from the several towns, was established, in 1639, so large

*Bradford, 372, 373.

had been the immigration from Massachusetts Bay, that six towns or settlements besides Plymouth were represented.*

It has been said that the church at Plymouth was the mother church of the churches of Massachusetts Bay, or that they were patterned after it.† This is without

* "Bradford had scarcely been three months in his grave before the narrower spirit of Massachusetts began to make itself felt where he had always exercised a restraining hand. The old Pilgrim Colony had been inundated and overwhelmed by migrations from her sister colony. Taunton, Rehoboth, Barnstable, Sandwich, and Yarmouth — all represented in the General Court — had been settled by immigrants having little or no affiliations with the colony into which they had come, who were permeated with the modes of thought and of legislation characterising the colony they had left."—William T. Davis' *History of the Town of Plymouth*, 65, 66.

"The origin of New England, as the living embodiment of certain political and religious principles, dates from the foundation of Massachusetts. The more vigorous life of the younger Commonwealth overshadowed, and in the long run swallowed up, that of her older but weaker yokefellow; nor can it be fairly urged that Plymouth had either by example or otherwise much effect on Massachusetts. If the Plymouth settlement had never been made, the political life of New England would in all probability have taken the same form and run the same course as it did."—Doyle's *English Colonies in America*, I., 46.

The Plymouth Colony remained independent until 1692; when, by the Province Charter, the colonies of Massachusetts Bay, Plymouth, the Province of Maine and Nova Scotia, and the intervening territory, were united under one government, under the corporate name of "The Province of the Massachusetts Bay in New England."

† Baillie, and other Presbyterian divines of Scotland, in their controversies with the New England ministers, in the time of Cromwell, for the purpose of prejudicing churchmen and Presbyterians against the independents, were accustomed to say that they sprung from the Separatists of Plymouth and Leyden. Baillie, in his book called "The Dissuader," said,

foundation in fact. Aside from the radical differences in ecclesiastical opinions which distinguished the settlers of Massachusetts Bay from those of Plymouth, it is certain that the course to be pursued by the ministers, Higginson and Skelton, who came over in 1629, was decided upon in England before they left. Cradock, Governor in England of the Massachusetts Bay Colony, in a letter to Endicott, dated April 17, 1629, refers to the ministers to be sent over, and writes: "For the manner of the exercising of their ministry and teaching both our own people and the Indians, we leave that to themselves, hoping they will make God's word the rule, and mutually agree in the discharge of their duties." In another part of the letter, which evidently was not all written at one time, he writes: "We have in the former part of our letter certified you of the good hope we have of the love and unanimous agreement of our ministers, they having declared themselves to us to be of one judgment, and to be fully agreed on the manner how to exercise their ministry, which we hope will be by them accordingly performed." *

The ministers were undoubtedly familiar with the practices of the reformed churches on the continent, which

"The congregation of Plymouth did incontinently leaven all the vicinity." Cotton, in reply, said, "The Dissuader is much mistaken, when he saith, 'The congregation of Plymouth did incontinently leaven all the vicinity;' seeing for many years there was no vicinity to be leavened. And Salem itself, that was gathered into Church order seven or eight years after them, was about forty miles distant from them." — Cotton, *The Way*, etc., 16.

* Mass. Records, 1, 394.

aided them in determining upon the course to be pursued in the colony. The history of the churches of the Massachusetts Bay Colony will be hereafter more fully given.

The three principal men of Plymouth were William Bradford, Edward Winslow, and Miles Standish.

Bradford was a member of the church in Scrooby, emigrated with the company to Holland, and came to Plymouth with the first company. He was born in 1589, and died in Plymouth in 1657. He was governor of Plymouth thirty-one years and managed the affairs of the colony with great wisdom and prudence. He wrote a history of Plymouth from its first settlement to the year 1647; which work he commenced in 1630 and finished in 1650.

Winslow was a gentleman of excellent education and of a good family in Worcestershire, England. Hutchinson says, "He was a gentleman of the best family of any of the Plymouth planters." He was born in 1594. In 1617, while on a tour through Holland, he became acquainted with Mr. Robinson and members of his church in Leyden, where he settled and was married. He was governor of Plymouth three years, and made several voyages to England as agent for the colony. He was much beloved and respected by the people of Massachusetts Bay Colony, and was commissioned to act for that colony in England, in 1634 and in 1646. His services in England, especially in 1646, upon complaints made by Childe and Gorton against the Massachusetts government, were very valuable and highly appreciated, but caused

some jealousy in Plymouth, as it was thought they interfered with the performance of duties to Plymouth, for which he was commissioned. He never returned to Plymouth after his mission of 1646.

Bradford, in 1650, referring to the mission of Winslow, says: "But by reason of the great alterations in the State, he was detained longer than was expected, and afterwards fell into other employments there, so as he hath now been absent this four years, which hath been much to the weakening of this government, without whose consent he took these employments upon him." * In 1655 he was appointed by Cromwell as the chief of three commissioners to accompany the expedition against Hispaniola, and died on the voyage, May 8, 1655. He wrote a history of the early days of Plymouth in what are known as "Winslow's Relation" and "Winslow's Brief Narration."

Standish was a soldier. He came over in the first company. His motives in joining the expedition are not known, but he probably came through a love of adventure. He was a most valuable man to Plymouth, and, in the performance of the various important military and civil duties entrusted to him, displayed great courage and sound judgment. He was never a member of the Pilgrim Church. He died at Duxbury in 1656, at about the age of seventy.

In 1622, Thomas Weston sold to the London Company his interest in the Plymouth venture, and obtained from

* Bradford, 444.

the Council for New England a patent, which is not extant.* Under it, he sent over, the same year, from fifty to sixty men to commence a settlement, and establish a trading post. The company was composed largely of "rude fellows," as described by Weston in a letter to Bradford.†

They came first to Plymouth, arriving about July 1, and remained there until the last of the summer, awaiting the return from Virginia of the ship in which they came over, to which place she was dispatched with passengers from England. Meanwhile, Wessagusset, now Weymouth, was selected for the settlement, and upon the return of the ship the company was taken there. This place was in Massachusetts, and about twenty-five miles from Plymouth. Blockhouses were constructed, and other preparations made for the winter. But the men were very improvident and shiftless, and before winter their provisions were nearly all gone. The Plymouth people joined them in an expedition along the coast to make purchases of provisions from the Indians. A considerable quantity was obtained, but before the winter was over their supply was exhausted, and they were in great distress for food. The Indians, whom they had ill-treated, refused to sell them corn, and, seeing their weak condition, conspired for their destruction. Information reached Plymouth, the last of March, 1623, of the desperate state of affairs at Wessagusset, and Standish with eight men sailed to the settlement on pretence of trading with the Indians. He soon

* Bradford, 118, 122.

† Ibid, 120.

became satisfied of their treacherous designs, and contrived to get two of the chief conspirators with two other savages into a blockhouse. Standish, with four or five Plymouth men, had preceded them, and, upon a preconcerted signal, fell upon and killed three of the Indians, and captured and bound the other, a young brave, and immediately hung him. Standish killed another savage outside the blockhouse, and his men killed two others in another part of the settlement.

Upon information of this massacre, Robinson wrote a severe letter to the Plymouth people, in which he said, "Concerning the killing of those poor Indians of which we heard at first by report, and since by more certain relation, oh ! how happy a thing had it been if you had converted some before you had killed any ; besides, where blood is once begun to be shed, it is seldom staunched of a long time after. You will say they deserved it. I grant it ; but upon what provocations and invitements by those heathenish Christians ? Besides, you, being no magistrates over them, were to consider, not what they deserved, but what you were by necessity constrained to inflict." *

The Weston men were filled with consternation at what had been done, and consulted with Standish as to what course they should pursue. Standish declared to them that he would not fear to remain with a smaller force than theirs. But they had had enough of the climate, of starvation, and of the Indians. They had been expecting Weston with supplies from England, and were discouraged

* Bradford, 164.

that they heard nothing from him. They decided to embark in their small vessel, the *Swan*, and sail eastward to the fishing stations, hoping to meet Weston there; and if not, that they could work their way back to England on some of the fishing vessels. Standish, from a scanty supply, furnished them sufficient food for the voyage. They started together, the one party to the eastward and the other to Plymouth, Standish taking with him the head of the chief Indian conspirator, Wituwamat. This was the end of Weston's settlement.

The charter of the Council for New England gave to the company a monopoly of fishing on the coast of New England, which was disregarded by the fishermen. In the latter part of June, 1622, Francis West, commissioned by the Council as admiral of New England, "to restrain interlopers and such fishing ships as came to fish and trade without a license," arrived on the coast, but he was soon convinced that "he could do no good of them for they were too strong for him, and he found the fishermen to be stubborn fellows."* He remained on the coast but a short time.

In September, 1623, Robert Gorges, son of Sir Ferdinando Gorges, commissioned by the Council "as their lieutenant, to regulate the state of their affairs," arrived with a company and took possession of the deserted buildings of the Weston company, at Wessagusset. He was commissioned with large civil and ecclesiastical powers, and brought with him William Morel, an ordained clergyman

* Bradford, 141.

of the Church of England. Bradford says of Morel, "He had I know not what power and authority of superintendency over other churches granted him, and sundry instructions for that end ; but he never showed it or made any use of it (it should seem he saw it was in vain) ; he only spoke of it to some here at his going away." *

Gorges passed about two weeks in November at Plymouth, and after that resided at Wessagusset until towards spring, when, with a portion of his company, he sailed in the *Swan* to the fishing stations at the eastward. There he received letters from his father stating he could not procure money, and that a session of Parliament was to be held,† and advising him to return home, "till better occasion should offer itself unto him." He returned with a portion of his company, having scarcely saluted the coun-

* Bradford, 154.

† The subject of the monopoly in the charter of the Council for New England had been before Parliament prior to the appointment of Robert Gorges, and in 1624 was renewed and considered, and a bill was passed granting free fishery to all Englishmen. The opposition to the monopoly was spirited, and, during the discussion, Sir Edward Coke, who presided in the House of Commons, addressed, from the Speaker's chair, Sir Ferdinando Gorges, who in person was pressing the claim for the monopoly, and said to him, "Your patent contains many particulars contrary to the laws and privileges of the subject ; it is a monopoly, and the ends of private gain are concealed under cover of planting a colony. Shall none," said he, "shall none visit the seacoast for fishing? This is to make a monopoly upon the seas, which are wont to be free. If you alone are to pack and dry fish, you attempt a monopoly of the wind and sun."

The king refused his assent to the bill, claiming it was an interference with his prerogatives. Yet the effect of its passage was to prevent any further attempts by the company to enforce the monopoly.

try in his government.* Morel returned to England the next summer, leaving a few people at Wessagusset.

About the time Morel left Wessagusset, a Captain Wollaston, with several associates, and some thirty servants indented for a certain time, arrived from England, and commenced a settlement at what is known as Wollaston Heights, within the limits of the present city of Quincy, and about three miles northerly from the settlement at Wessagusset. He came, probably, to establish a trading post and fishing station. The next spring, being dissatisfied with the prospects at this place, he sailed for Virginia, taking with him the principal part of his servants, and there sold his right to their services under their indentures, and sent back for some more.

In Captain Wollaston's company was one Thomas Morton, a profligate adventurer, who had some pecuniary interest in the enterprise. He was a London attorney. When the second detachment of servants left for Virginia, an agent was appointed to take charge of those that remained. Morton secretly plotted with the servants to expel the agent from the settlement, and allow him, Morton, to take his place. This was accomplished, and the agent took refuge with the few settlers remaining at Wessagusset. Morton changed the name of the place to Merrymount or Ma-re-Mount, as Mr. Adams states,† entered into a trade with the Indians, sold them guns and ammunition, and taught them how to use them. With the proceeds of the trade, they indulged in all sorts of revel-

* Bradford, 154.

† Adams' Three Episodes, I., 175.

ries. "They frisked like fairies, or rather furies, around a Maypole," and in one morning would drink ten pounds' worth of strong liquor, with the help of the Indians with whom they consorted. This conduct, especially the trade in firearms, caused great alarm to the settlers in "the straggling plantations," as Bradford styled the small settlements which were commenced in Massachusetts, and on the Piscataqua River.*

A meeting of representatives of these settlements was held, and as Plymouth was the strongest at the time, they requested its authorities to put a stop to these proceedings. Repeated warnings were given to Morton, who replied with insolence and defiance, whereupon Standish with a small company of Plymouth men proceeded to Merrymount. Morton, who had received notice of their approach, barred the door to his house, and made a show of defence. But Standish seized him and took him to Plymouth, from which place he was sent to England in the charge of Oldham, with whom the Plymouth people had become reconciled.† A letter, signed by the princi-

* Bradford, 240.

† He, Morton, "threatened withal that if any came to molest him, let them look to themselves, for he would prepare for them, upon which they saw there was no way but to take him by force, and having so far proceeded, now to give over would make him far more haughty and insolent. So they mutually resolved to proceed, and obtained of the governor of Plymouth to send Captain Standish and some other aid with him, to take Morton by force. The which accordingly was done, but they found him to stand stiffly in his defence, having made fast his doors, armed his consorts, set divers dishes of powder and bullets ready on the table, and if they had not been over-armed with drink, more hurt might have been

pal inhabitants, directed to the Council for New England, was also sent by Oldham, giving a statement of Morton's conduct. The Council paid but little attention to it, and the next year, 1629, Morton returned to his old haunts. In the meantime, Endicott went to Merrymount, where a few of Morton's men still lived, caused the May-pole to be cut down, and admonished them that there should "be better walking." Upon Morton's return, the Indians in his neighbourhood complained bitterly that he ill-treated them, and a warrant for his arrest, to be returned to England, for an alleged crime, was received; whereupon he was taken by process, set in the stocks, his goods taken to pay his creditors, the cost of extradition, and to satisfy the Indians he had injured; and his house was burned down in their presence, and he was again sent to England. It does not appear that on his arrival in England he was prosecuted on the charge made. While there, he was active in aiding the enemies of the colony. In 1637, he published a book defamatory to the colony, called the "New England Canaan." In 1643, he appeared done. They summoned him to yield, but he kept his house, and they could get nothing but scoffs and scorns from him, but at length, fearing they would do some violence to the house, he and some of his crew came out, but not to yield but to shoot; but they were so steeled with drink as their pieces were too heavy for them; himself with a carbine (overcharged and almost half filled with powder and shot, as was after found) had thought to have shot Captain Standish, but he stepped to him and put by his piece and took him. Neither was there any hurt done to any of either side, save that one was so drunk that he ran his own nose upon the point of a sword that one held before him as he entered the house, but he lost but a little of his hot blood." — Bradford, 241-2.

again at Plymouth, where he was permitted to remain during the winter. In the spring of 1644 he went to Boston, was arrested, tried, convicted, and fined for defaming the colony in his book. He was unable to pay his fine, and, after a short imprisonment, was released, when he went to Piscataqua, where, in a few years, he died.*

Besides the settlements which have been described, there were, on the arrival of Winthrop in 1630, family or single individual settlements at Winnisimmet now Chelsea, at Shawmut now Boston, at Charlestown, and at Thompson's Island.

Samuel Maverick came over in 1624, in the interest of Gorges, and settled at Winnisimmet, where he built a dwelling and trading house which was protected by palisades and cannon. With him came a number of servants, including some negro slaves.† He engaged in trade with the Indians, and in commerce along the coast. He was of good family, well educated, and very generous and hospitable. Although a sturdy Churchman, he had for some years the confidence of the people, was appointed by the General Court on several committees, and in 1633 received a grant of Noddle's Island, now East Boston. He applied for admission as freeman in October, 1630, and took the oath in October, 1632. But in the troubles which subsequently threatened the colony, his known connection with Gorges created suspicion; and when, in 1635, preparations were being made to prevent the land-

* A very full account of these settlements is given in Adams' *Three Episodes of Mass. History*, Vol. I.

† See Eliot's *Biog. Dict.*

ing of a general governor, he was ordered to remove with his family to Boston and forbidden to entertain any stranger more than one night, without the consent of an assistant. He became dissatisfied with the conduct of the government and churches, and in 1648 signed the petition of Doctor Childe and others, for which he was fined and imprisoned. Two years later he sold Noddle's Island and removed from the colony.

William Blackstone or Blaxton settled at Shawmut several years before the arrival of Winthrop. His house was on the western slope of Sentry, now Beacon Hill. He was admitted as freeman in May, 1631. April, 1633, fifty acres of land were granted him, "near to his house in Boston." He never joined the Church of Boston, and a reason for it he has been said to have given was, that he left England out of dislike of the lords Bishops, and did not join the church here through dislike of the lords Brethren. In 1634 he sold to the town of Boston all his interest in lands excepting a few acres by his house, and soon after removed to the banks of what is now the Blackstone River, where he built a house and lived the remainder of his life.

In the spring of 1630, Sir Christopher Gardiner, as he styled himself, appeared in the colony accompanied by a comely young woman he called his cousin, and built himself a house a few miles from Boston. He professed much piety, but his conduct excited suspicion of insincerity. In the winter after his arrival information was sent from England of two women he had married and

deserted, and letters from both were received by Winthrop, one of them requesting that he should be immediately sent back to England to be dealt with for his offences. Upon which a court was held and an order passed for his arrest. He received information of it, and before the arrival of the officers betook himself to the forest. A reward was offered for his apprehension. In the meantime he had left Massachusetts and was discovered by some Indians within the jurisdiction of the Plymouth Colony, who captured and took him to Plymouth, from which place he was taken to Boston in the custody of officers from Massachusetts.

Shortly after his arrival at Boston a package of letters to him was received under cover to Winthrop, who opened them. They were from Gorges, who addressed him as his agent. In them, reference was made to the grant to Robert Gorges in 1622, which was included in the grant to the Massachusetts Bay Colony. It does not appear that any prosecution was instituted against him, and he was not sent back to England. In a few months after his arrest he was allowed to go to Maine, where he remained about one year, probably in the service of Gorges, when he returned to England, where, with Morton and Ratcliff, he rendered aid to Gorges and Mason in their complaints against the colony.

Thomas Walford, a blacksmith, was living in Charlestown when the first company arrived there, and the widow of David Thompson was living at Thompson's Island in Boston Harbour.

CHAPTER I.

FOUNDATION OF THE COLONY.

IN 1623, some merchants of Dorchester, England, who had been engaged for several years in the cod fishery on the coast of New England, determined to try the experiment of establishing a plantation and trading post conveniently near the fishing grounds, to be carried on in connection with fishing. It was necessary to bring over each year a much larger number of men than was required for navigating the vessels, that a full cargo of fish might be caught and cured in the brief fishing season, which was from February to June. The vessels left England in January, or early in February, and returned to arrive in England in September and October.*

By establishing a plantation in connection with the fishery, employment on land for a large portion of the year would be given to the men not required to man the vessels. When not engaged in fishing they could cultivate the land and carry on a trade with the Indians in furs; and it was thought that after the first year the men on the plantation would not only be able to support themselves from their crops, wild game, and fish, but to sup-

* Young's Chron. Mass., 5; Sabine's Report on the fisheries, p. 40; Senate Doc., Vol. 5, 32 Cong., 2d session.

ply fresh vegetables and meat to the vessels during the fishing season, and that a large profit could be made from the trade with the Indians. It was also an influential consideration, in accordance with the intense religious spirit of the time, that a minister could be supported on the plantation, to impart religious instruction, especially during the fishing season, to the fishermen when on shore for curing the fish. For the purpose of this undertaking more than three thousand pounds were subscribed, to be expended in the purchase of vessels and farming utensils and provisions for the plantation.* An arrangement was made with the Plymouth people for the occupation of land at Cape Ann, now Gloucester, which was a portion of the territory granted them by Lord Sheffield under a patent, based on a proposed division of the territory of the Council for New England, that was never completed.†

The project was matured, and in the spring of 1624 a small vessel of fifty tons was purchased and despatched for the purpose of making a commencement of the undertaking, with Thomas Gardener as overseer of the plantation, and John Tilley of the fishery, both engaged for one year.‡ But from delay in preparation, the vessel did not arrive at the fishing grounds until from four to six weeks after the commencement of the fishing season, and being unable to obtain a full fare of fish at Monhegan, the master sailed to Massachusetts Bay, where he was more

* Young's Chron. Mass., 5, 6.

† Smith's Gen. Hist., 247; Thornton's Landing at Cape Anne, 16.

‡ Hubbard, 106. Young's Chron. Mass., 7.

successful, and secured a good cargo of fish ; after which he left fourteen men at Cape Ann, and sailed for Spain, arriving too late for a good market, and thence to England. The men left at Cape Ann constructed a house, salt works, and other structures required for curing fish.*

The next spring, the Dorchester Company having heard that there were residing at Nantasket "some religious and well-affected persons that were lately removed out of New Plymouth, out of dislike of their principles of rigid separation, of which number Mr. Roger Conant was one, a religious, sober and prudent gentleman," engaged him to be "their governor" at Cape Ann, and to take charge of both the plantation and the fishing. Mr. John White, a non-conformist clergyman of Dorchester, who had been active in starting and promoting the enterprise, became satisfied of Conant's qualifications for the position through information from Conant's brother in England, who was well known to him. The Dorchester Company also invited Mr. John Lyford to be minister of the plantation, and John Oldham to take charge of the trade with the Indians. Lyford accepted the invitation, but Oldham declined, preferring to remain where he was at Nantasket and trade on his own account.†

Conant and Lyford removed to Cape Ann in the spring, or early in the summer of 1625. That year two vessels were sent over for fishing, but a small fare of fish was taken. The vessels on their return to England left thirty-

* Young's Chron. Mass., 7. Palfrey, I., 285.

† Hubbard, 106, 107.

two men at Cape Ann.* The next year, 1626, three vessels were sent over, one with cattle and provisions for the plantation. The success was no better than in the preceding year. The results on the plantation were unsatisfactory. The time for planting was found to be in the busiest part of the fishing season; many of the men employed in planting were ill chosen, and there was a great depreciation in the value of vessels. The Dorchester Company became discouraged, determined to abandon the further prosecution of the enterprise, and sold their vessels. They paid the wages of the men, and offered transportation to England to such as should desire to return, which the more indolent ones accepted. The others, through the influence of Conant, decided to remain to take charge of the cattle and other property of the Dorchester Company on the plantation.†

The location at Cape Ann had been selected with especial reference to the convenience it afforded for the fishery, but the soil proved to be unsuitable for a plantation. Upon the abandonment of the fishery, Governor Conant selected Naumkeag, now Salem, "a pleasant and fruitful neck of land," as a preferable place for planting, and removed there with his associates in the fall of 1626, and commenced the erection of houses and the preparation of the land for cultivation.‡ Conant corresponded with friends in England upon the change of location, and

* Young's Chron. Mass., 9.

† Young's Chron. Mass., 9-12. Babson's Hist. Gloucester, 40.

‡ Hubbard, 102.

the expediency of maintaining the settlement. Mr. White, whose interest in the success of the enterprise increased with the discouragements it encountered, wrote to Conant urging him "not so to desert the business," promising that "if himself with three others (whom he knew to be honest and prudent men, namely, John Woodberry, John Balch, and Peter Palfrey, employed by the adventurers) would stop at Naumkeag, and give timely notice thereof, he would provide a patent for them, and likewise send them whatever they should write for, either men or provisions, or goods wherewith to trade with the Indians." They returned answer that they would remain, "entreating that they might be encouraged accordingly." But afterwards many of the men became discontented, and upon the acceptance by Mr. Lyford of an invitation to go to Virginia, expressed a desire to accompany him. By the earnest persuasion of Conant, they were induced to remain, and John Woodberry was sent to England for supplies.*

In the meantime, Mr. White had been industrious in his efforts to promote the enterprise and interest others in it. Several members of the Dorchester Company were also desirous to maintain the plantation. They conferred with gentlemen in London, who were induced to join them in the purchase of additional cattle, which they sent over for the support and encouragement of the planters. The discussion of the subject interested men of means, who expressed a willingness to contribute toward the

* Hubbard, 107, 108.

support of the plantation if fit men could be found to go over, and, upon inquiry, it was found that a number were willing to go, among them Mr. John Endicott, who was well known to the promoters of the enterprise as a suitable man to take charge of the company.* Arrangements were at once made, and March 19, 1628, Sir Henry Roswell, Sir John Young, Thomas Southcoat, John Humphrey, John Endicott, and Simon Whitcomb obtained from "The Council established at Plymouth, in the county of Devon, for the planting, ruling and governing of New England in America," usually called the "Council for New England," a patent of territory bounded northerly by a line three miles north of the Merrimac River, southerly by a line three miles south of the Charles River, and extending from the Atlantic Ocean to the South Sea, so called.† The history of this patent is as follows :

In 1606, a charter was granted by King James of all the territory between the thirty-fourth and the forty-first degrees of north latitude, to a company styled the South Virginia Company; and in the same charter was granted to another company, styled the North Virginia Company, all of the territory between the thirty-eighth and forty-fifth degrees, the intervening territory to be held by both companies in common, each company to have administrative powers on the place, but both to be controlled by a general government in England.

In 1620, the North Virginia Company, largely through

* Young's Chron. Mass., 12, 13, 309, 310.

† Neither the patent nor a copy of it is known to be in existence.

the efforts of Gorges and Mason, obtained from the king an independent charter, of territory extending from the fortieth to the forty-eighth degrees of north latitude, and from sea to sea, varying several degrees from the original grant. The territory extended upon the seacoast from the latitude of Philadelphia to the middle of Newfoundland. The charter conferred upon the company exclusive powers of trade, and a monopoly of fishing upon the coast. All grants of land in New England were made under this patent. Grants were made interfering with the boundaries of others, and, in some instances, grants of the same territory were made, at different times, to different persons. The only explanation of the making of these conflicting grants is, that grants not immediately improved, and possession thereof retained, were deemed to be forfeited, or that the later grants were made with the assent of the owners of the earlier ones, which were not recorded, or that the earlier grants had not been legally made.

Before the grant to Roswell and his associates, a considerable portion of the territory embraced in it had been granted to other persons. March 9, 1622, the Council for New England granted to Captain John Mason what is described as a great headland or cape, known as Tragabizanda, or Cape Ann, extending from the Naumkeag, now Bass River, in Beverly, to the Merrimac River, to be known as Mariana. And August 10, 1622, the Council granted to said Mason and Sir Ferdinando Gorges all the land between the Merrimac and Sagadahock, now the Kennebec

River, and sixty miles westward, with all islands within five leagues of the shore, to be known as the Province of Maine. This territory was probably divided between Mason and Gorges, although no record of it is known, as November 7, 1629, the Council for New England made a grant to Mason of all the land lying between the Merrimac and the Piscataqua, to be known as New Hampshire, which was probably intended as a confirmation of his title under such division ; and December 30, 1622, made a grant to Robert Gorges, son of Sir Ferdinando, of all the mainland of Massachusetts on the northeastern side of the bay, with all the shore toward the northeast for ten miles in a straight line, and thirty miles inland, also all islands within three miles of the shore, not before granted. This included the land from Massachusetts Bay, which was at that time understood to mean Boston Bay, northeasterly to a point on the shore at or near what is now Swampscott. Upon the death of Robert Gorges without issue, this land descended to his brother, John Gorges, who, December 10, 1629, made a grant to Sir William Brereton of all said land on the shore from the eastern side of Charles River to the eastern side of Nahant Cape, and twenty miles inland ; also two islands near the shore. He also made a grant to John Oldham and John Dorrel of the other portion, described as between the Charles River and the Abousett, now Saugus River. *

* For a history of these several grants see Hazen, in Lowell Inst. Lectures in 1869, 147-162. Belknap Hist. N. H., I., 11-14. Palfrey, I., 397-402, notes.

These conflicting grants occasioned much trouble, as will be seen hereafter.

Soon after the grant to Roswell and others, Sir Richard Saltonstall, Isaac Johnson, Samuel Aldersey, John Venn, Matthew Cradock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchings, William Vassall, William Pynchon, and George Foxcroft obtained an interest in the patent, probably by the purchase of the shares of the three persons first named in it, as their names do not appear in connection with it after its confirmation by the king.* Energetic measures were at once taken by the new company. They purchased of the Dorchester company all their property at Cape Ann and Naumkeag; made preparations to send over men and supplies; and appointed Mr. Endicott to take charge of the proposed expedition, with instructions to proceed to Naumkeag to "carry on the plantation of the Dorchester agents," and to "make way for the settling of another colony in Massachusetts," meaning on the shores of Boston Bay.†

Preparations were hastened, and June 20, Endicott, with a company of planters and servants, sailed in the ship *Abigail* from Weymouth, England, for Naumkeag. His instructions, signed by John Venn, Matthew Cradock, George Harwood, John Humphrey, Hugh Peters, John

* Hubbard, 109. Mass. Records, I., 6.

† Hubbard, 109.

White, Richard Perry, George Hewson, Samuel Aldersey, Thomas Stevens, Joseph Caxton, Thomas Webb, Increase Nowell, and Abraham Palmer, were dated May 30, 1628.* He arrived at Naumkeag, September 6, and wrote to Mr. Cradock a letter, dated September 13, informing him of his arrival. The precise number of the men who came over with Endicott, or of those at Naumkeag with Conant, is not known. White, in his "Brief Relation," states the number of newcomers and of the old planters together, as from fifty to sixty. The names of eight of the old planters are known.† Felt estimates the whole number with Conant, including women and children, at thirty,‡ which is, probably, nearly correct. The same year the company sent over more servants.

The old planters at Naumkeag were much dissatisfied upon information, which was probably first brought by Woodberry, who returned in June, of the formation of the new company, the superseding of Conant in the government of the plantation, and the transfer of all the rights and property of the Dorchester company.§ The letter of Endicott to Cradock, which has been referred to, has not been preserved, but it is probable, from the subsequent letters of the company to Endicott, that he had a dispute with the old planters in regard to the cultivation of

* Hutchinson, I., 16, n.

† Goodman Norman and Son, William Allen, Walter Knight, John Woodberry, Roger Conant, Peter Palfray, John Balch. — Thornton's Landing at Cape Ann, appendix.

‡ Coll. Am. Stat. Ass'n, I., 138.

§ Hubbard, 109, 110.

tobacco, in which they had been engaged, which was concluded by his allowing them to cultivate it until he had further instructions from the company. The old planters complained that the purpose was to make them slaves. There was much ill-feeling on the subject, but finally they became reconciled through the prudence and moderation of Conant.*

Soon after the arrival of Endicott, he sent men to take down and remove to Salem the frame house at Cape Ann, which had been built by the Dorchester company.† He also sent seven men or more to "the Massachusetts," "to make way for the settlement of another colony there." They proceeded to what is now known as Charlestown, where they found a body of Indians, and Thomas Walford, who lived in a house that was thatched and palisaded. They remained there with the free consent of the chief of the Indians.

Meanwhile, in England, large additions were made to the company from the gentry and wealthy merchants from different parts of the realm. The territory covered by the patent was extensive. Its importance, under certain not improbable conditions in the near future, was seen. The earlier conflicting patents were undoubtedly known to the company. The Council for New England was invested with powers of government granted to the corporators and their successors in perpetual succession. These powers could not be delegated. The Roswell patent

* Mass. Records, I., 385. Hubbard, 110.

† Thornton's Landing at Cape Ann, Appendix.

conveyed only a title to the land. A confirmation by the king would strengthen their title, and powers of government seemed almost a necessity if a permanent settlement was to be attempted. Was it possible to obtain both or either? It was decided to make a trial. The company had influential friends at court. The Earl of Warwick and Lord Dorchester, one of the Secretaries of State, were their friends. White, an able lawyer, and Bellingham, both of whom were in full sympathy with the movement, acted as their advocates. The company was possessed of the sinews that would be most potential with Charles, who was resorting to extraordinary measures to extort revenue. A vigorous and successful effort was made. They obtained from the king a new charter with the coveted powers of government, under the title, "The Governor and Company of the Massachusetts Bay in New England," * which passed the seals March 4, 1629. Mr. Cradock, in his first letter to Endicott, of date April 17, referred to the privileges which, "we from his majesty's especial grace, with great cost, favour of personages of note, and much labour have obtained." † Months before the grant of the royal charter, preparations had

* Mass. Records, I., 3.

† Ibid, 386. A charter was obtained from King Charles which some manuscripts say cost the company two thousand pounds sterling. Hutchinson, II., 9, same page, note, "I paid £50, and Mr. Eaton £100, and sundry other merchants the same sums respectively, for the purchase of the charter, we being members of the corporation for N. E." Davenport's letter. It has been estimated a pound sterling at that time was equal in value to six or eight pounds at the present time.

been commenced for a large emigration in the spring. The records of the company state the different contracts made with skilled workmen, and, with the ministers who were to go over, they also give in detail the various articles to be purchased for the use of the emigrants and the support of the plantation. Matthew Cradock, who had been previously elected governor of the company, in a letter dated February 16, 1629, refers to Endicott's wife as his cousin,* and informs him that the company is much enlarged since his departure, that they had purchased one ship, the tonnage not given, and hired two others of about 200 tons each, and intended to hire another ; that they proposed to send over from two hundred to three hundred persons and one hundred head of cattle ; requests that he would have houses built for as many as he could, and to have in readiness for the return of the ship, beaver (skins), some sassafras, sarsaparilla, sumac, silk-grass, and anything else suitable for dyeing, or for medicinal purposes, and to inform him in what quantities they are produced, some sturgeon, also some wood, if no better lading could be obtained ; reminds him of the main end of the plantation, which was to endeavour to bring the Indians to the better knowledge of the Gospel ; enjoins him to treat the Indians justly and courteously, and to educate their children ; he also wrote that two ministers at the least were to be sent over ; that Mr. Peters was in Holland, and it was uncertain when he would return, and that the ministers sent would have the

* Mass. Records, I., 383.

approbation of Mr. White, of Dorchester, and of Mr. Davenport; informs him that the course he had taken in regard to the planting of tobacco was approved for the present, but hopes the old planters will find some better and more profitable employment.* A letter was also sent to Endicott from the governor and deputy of the company, of date April 17, 1629, in which they state that, since the departure of Endicott, they had obtained a confirmation of their grant from the king by letters patent under the broad seal of England, a duplicate of which would be sent him by Mr. Sharp; that for the propagating of the Gospel, their aim above all things in settling the plantation, they have been careful to make "plentiful provision of godly ministers," for those of our nation and the Indians. They make mention of the several ministers they were to send, and that they have left to them "the manner of the exercising their ministry;" † they notify him that they have confirmed him as governor of the plantation, and joined in commission with him as a council three ministers, namely: Mr. Francis Higginson, Mr. Samuel Skelton, and Mr. Francis Bright, also Mr. John Brown, Mr. Samuel Brown, Mr. Thomas Graves, and Mr. Samuel Sharp; that the body of the government is to consist of thirteen persons; that the old planters might choose two, and that the seven above named might choose the other three from the men on the plantation, or from those who should come over. They further state that, as to the old planters, they do not wish to make

* Mass. Records, I., 383-385.

† Ibid, 387.

them slaves, but to give them the privileges of the company, and desired that they might enjoy not only the lands they had manured, but such further lands as the rest of the Council should think fit ; that they should have some benefit of the common stock upon such terms as the rest of the Council should deem to be just, to be paid in beaver (skins), at six pence per pound ; that, if the old planters conceived that they could not provide for their livelihood without raising tobacco, for the present they might raise it, under such restrictions as the rest of the Council should make, but they forbade the sale of it to, or the use of it by, any servants of the company or of individuals, "except upon urgent occasion for the benefit of health and taken privately." They also state that they have seen a grant from Mr. Gorges to Mr. Oldham and John Dorrell of certain lands within the Massachusetts between the Charles and the Abousett, which they particularly describe, and that William Jeffreys (at Weymouth) and William Blaxton were authorised by Gorges "to put John Oldham in possession ;" that they held the grant void in law, but they enjoined it upon Endicott and his associates, if he should attempt to take possession, for them, in their discretion, to "prevent him by causing some to take possession of the chief part thereof ;" that they had had no small disturbance in their business by Oldham making various propositions ; that they have come to the conclusion he is "an unfit man to deal with," and that they have at last "left him to his own way ;" that they were informed that he, with others,

was fitting out a vessel with dispatch, to proceed to New England, and to settle in Massachusetts under said grant from Gorges ; that they can make no proper terms with him, and Endicott and his associates must use the best endeavours they can to make an agreement with the old planters, so they will not listen to Oldham's propositions ; that they must suppress the mischief before "it takes too great a head ;" that a temperate course should be pursued if possible, but if necessity require a more severe course, that they deal with him, in their discretion, as they shall "think fittest for the general good and safety of the plantation and preservation of our privileges." They directed, in order to strengthen their possession, that as soon as any of the ships should arrive they "send forty or fifty persons to Massachusetts Bay to inhabit there," which they prayed them not to protract, but "to do it with all speed ;" also, that if any individuals of the company desire to settle there, or to send servants, they be permitted and encouraged so to do, "the better to strengthen our possessions there." They also authorized Endicott and his associates to give all their countrymen who had planted, if they should be willing to live under the government, the same privileges as are allowed to any of our own plantation, and, even if they saw cause for it, to give them more than ordinary privileges in point of trade. They also gave instructions, that, if any of the Indians claimed title to any of the lands covered by the patent, to "endeavour to purchase their title, that we may avoid the least scruple of intrusion." They also

gave the following instruction: "And to the end the Sabbath may be celebrated in a religious manner, we appoint, that all that inhabit the plantation, both for the general and particular employments, may surcease their labour every Saturday throughout the year at three of the clock in the afternoon, and that they spend the rest of that day in catechising and preparation for the Sabbath, as the minister shall direct." *

Another letter was sent of date May 28, 1628, giving additional instructions for the management and government of the plantation, and in it was enclosed a copy of an order of the company for the allotment of land, in which they provided that two hundred acres of land be given to each adventurer who has contributed £50 to the common stock; and at the same rate for additional contributions; fifty acres for each person who is sent over by any adventurer in the common stock, at his own charge, servants as well as others, to be given to such adventurer; and fifty acres, and more if the governor and council shall deem it necessary in any case, to any person who shall transport himself and family. They further order that conveyances of all lands shall be made to the different persons in the name of the company, to which the company's seal shall be affixed.†

They also sent over, at the same time, a copy of the rules they had adopted for the government of the colony.

The first records of the Massachusetts Bay Company are of date February 23, 1628-9. At a meeting held

* Mass. Records, I., 386-398.

† Ibid, 398.

March 5th next, the records show that a communication had been made by Sir William Brereton to the governor, in which the fact was stated that he had a patent of land in the Massachusetts Bay, granted him by Mr. John Gorges, and he offered to join the company if they would promise him it should "not be prejudicial to his patent;"* and it was resolved that the answer to it be made, "that if he pleased to underwrite with us without any condition whatsoever, but to come in as all other adventurers do, he should be welcome upon the same conditions that we have." At the same meeting a proposition was made in behalf of John Oldham, which was deferred for further consideration.† At a meeting held May 11th, it was stated that Mr. Oldham had proposed to Mr. White that he would have his patent examined; and it was voted, "not to have any treaty with him about it, by reason, it is thought he doth it not out of love, but out of some sinister respect."‡

Of the ships provided for transporting emigrants and cattle, before referred to, the ship *George Bonaventure*, of about 300 tons, armed with twenty pieces of ordnance, and manned by about thirty mariners, for "some special and urgent cause of hastening her passage," set sail about the middle of April, with fifty-two planters, provisions and cattle. April 25th, the ship *Talbot*, of about 300 tons, with nineteen pieces of ordnance, and manned by thirty mariners, carrying above 100 planters, five large pieces of ordnance, some goats, and "all manner of munitions and

* Mass. Records, I., 29.

† Ibid, 29.

‡ Ibid, 39.

provisions for the plantation for a twelvemonth;" and the *Lion's Whelp*, a ship of 120 tons, with eight pieces of ordnance, carrying about fifty planters, especially from Dorchester and its neighbourhood, with provisions, set sail from Gravesend. Soon after, the ships *Four Sisters*, *Mayflower*,* and *Pilgrim* sailed, carrying planters and provisions. The ship *George* arrived at Naumkeag, June 22, and the *Talbot* and *Lion's Whelp*, June 29.

Mr. Skelton and his wife came over in the *George*, Mr. Higginson and his family in the *Talbot*, and Mr. Bright in the *Lion's Whelp*. Passage was also granted to Mr. Ralph Smith, a Separatist minister, which the company, in a letter to Endicott, state was granted him "before we understood of his difference of judgment in some things from our ministers." The letter further states, and "we have therefore thought fit to give you this order that unless he will be conformable to our government, you suffer him not to remain within the limits of our grant."† He soon removed to Nantasket, and thence to Plymouth, where he supplied the place of a teaching elder. Before the ships sailed from England, the lord treasurer's warrant was given for the departure of "sixty women and maids, twenty-six children, and three hundred men, with victuals, arms, tools, and one hundred and fifty head of cattle."‡

The men who came over in the *George* proceeded imme-

* The same ship in which the Pilgrims came over in 1620.

† Mass. Records, I., 390.

‡ Prince's Annals, 257.

diately to Charlestown, and with them Mr. Graves the "engineer," who laid out streets, and commenced the building of the "great house," as it was called. They probably went before the arrival of the other ships, and were followed by Mr. Bright, the minister, and others, soon after their arrival at Naumkeag.

Mr. Higginson, within a few months after his arrival, wrote a glowing account of the plantation, which was published in England, in which he said, "When we came first to Na-humkek we found about half a score of houses, and a fair house newly built for the governor;" and "there are in all of us, both old and new planters, about three hundred, whereof two hundred of them are settled at Na-humkek, now called Salem, and the rest have planted themselves at Masathulets Bay, beginning to build a town there, which we do call Cherton, or Charlestown."*

From the time Lyford left for Virginia until the arrival of the second body of emigrants, the plantation was without a minister. Religious services during this period were probably conducted under the Episcopal forms, but immediately after their arrival Skelton and Higginson took measures for forming a church organisation. They proceeded, with the approval of the body of the colonists, to establish a church government entirely independent of the government of the Church of England. They believed they had a right so to do. They undoubtedly feared that if they should adopt the ritual, or any part of the government of the Established Church, the time

* Young's Chron. Mass., 259.

might come when they would have imposed upon them Bishops' Courts, the Court of High Commission, and all the detested forms and ceremonies of the Establishment. They were determined, if possible, to prevent this. They proceeded to establish a Congregational church. They consulted with Endicott, whom they found to be in full sympathy with them. July 20, less than one month after the last arrival of colonists, was appointed for fasting and prayer, and for the choice of a pastor and of a teacher. At the time appointed, after prayer, fasting, and a sermon, Mr. Skelton was chosen pastor, and Mr. Higginson teacher. A prayer was then offered by Mr. Higginson, when he and several of the gravest men consecrated Mr. Skelton, by the imposition of hands, after which Mr. Skelton consecrated his colleague in the same manner. August 6 was appointed as another day of fasting and prayer, for the choosing and ordaining of elders and deacons, and Mr. Higginson was requested to draw up "a confession of faith and form of a church covenant according to the Scriptures." On the appointed day the two ministers prayed, and preached sermons; and near the close of the day Mr. Higginson read the confession and covenant which he had prepared, which were solemnly assented to by thirty members, and a copy was given to each. The ministers were then ordained with the same ceremonies as those by which they had been consecrated, as was also Mr. Houghton, who had been chosen ruling elder.*

* It is stated by Hutchinson and other historians that Governor Brad-

Thus the first great step was taken toward the establishment of a church. When fully established, in accordance with English traditions and usages, it was to be the Church of the colony, to the exclusion of all other ecclesiastical organisations.

It is probable that, from prudential considerations, the result at which the ministers had arrived was not promulgated in England before their departure, and, perhaps, was not fully disclosed to the body of those who came over. It is certain that the course pursued was a surprise to some of the company, including John and Samuel Brown, two of the most prominent men of the emigrants, and members of Governor Endicott's council. Although nonconformists, they disapproved the extreme course that had been taken, and held separate meetings at which was read the Book of Common Prayer. They declared that the ministers "were Separatists, and would be Anabaptists." The minister replied "that they were neither Separatists nor Anabaptists; they did not separate from the Church of England, nor from the ordinances of God there, but only from the corruptions and disorders there, and that they came away from the Common Prayer and

ford was present at the ceremonies, and arrived in season to extend the right hand of fellowship. Goodwin, in his history of the Pilgrim Republic, p. 325, n., says "this is probably an error." The only authority for the statement is Morton's Memorial, written more than thirty years after the event. Bradford's history contains a copy of a letter he received from Salem giving an account of the first meeting, and it seems strange, if he was present at the second and more important one, that he made no reference to it. Morton's Mem., ed. 1826, 92.

ceremonies, and had suffered much for their nonconformity in their native land ; and therefore, being in a place where they might have their liberty, they neither could nor would use them, because they judged the imposition of these things to be sinful corruptions in the worship of God.”*

This produced a conflict which could not be composed. Endicott had written instructions from the company, that persons not “conformable to their government” should not be permitted “to remain within the limits of their grant.” He caused the Browns to be brought before him for their “seditious” proceedings, and finding that their speeches and practices tended to mutiny and faction, told them “that New England was no place for such as they,” and sent them back to England on the return of the ships in which they came over.†

There has been much discussion of the question whether the colonists had a right to establish a church government independent of the national Church. There is nothing in the charter which in terms forbids such an establishment. The only reference made to the subject is in the provision authorising the governor and other officers to administer the oath of supremacy, but not requiring that it should be administered. King Charles, when he granted

* Morton's Mem., ed. 1826, 94, 95.

† Ibid, 95. The Browns after their return to England applied to the company for recompense for the damages they had sustained, and the matter was referred to gentlemen selected by the parties, but the records do not show to what conclusion they came.

the charter, fully understood that the grantees were non-conformists, and that they sought the grant for the purpose of establishing a colony in which they might worship God in accordance with the dictates of their own consciences. He had early information of the course pursued in the colony. His attention was especially called to it on the return of the Browns. The king, at different times, sent messages to the governor and General Court of the colony, complaining of their conduct, but in no instance did he complain that the colonists had set up an Independent Congregational Church without his consent. The attorney-general of England brought a *Quo Warranto* against the government of the colony in 1637, in which he charged various illegal acts, but none in regard to their church organisation.* Winthrop states that at the conclusion of a hearing before the king and his Council, in 1633, the agents of the colony were "assured from some of the Council that His Majesty did not intend to impose the ceremonies of the Church of England upon us, for that it was considered that it was the freedom from such things that made people come over to us."†

Charles the Second, upon complaints from Church of England members in the colony, that they were not allowed their separate worship, in a letter to the governor, of date June 28, 1662, required that the liberty be granted them; and referring to the charter, wrote, "And since the principle and foundation of the charter was, and is, the freedom and liberty of conscience," etc. And in

* Hutchinson papers, 101-103.

† Winthrop, I., 103.

another letter, of date July 24, 1679, he wrote, "Whereas liberty of conscience was made one principal motive for your first transportation into those parts," etc. These were plain admissions that it was understood, from the beginning, that the colonists were not to be governed in their religion by the English hierarchy. He made no charge against the colonists that they had, without authority, established an independent church; but claimed, in contravention of all English precedents upon the subject, that the church, when established, was to exercise toleration.

It is evident from the letter of Winthrop and others to the Church of England, from on board the *Arbella*,* that the colonists, in the absence of any requirement of the king to the contrary, believed they had the right to establish an independent church government, not only under the rules of the primitive Church, but under the articles of the English Church, which were adopted in the reign of Queen Elizabeth. These articles declare that "It is not necessary that traditions and ceremonies be in all places one, or utterly like, for at all times they have been divers, and may be changed according to the diversity of countries, times, and men's manners, so that nothing be ordained against God's word," and, "Every particular or national church hath authority to ordain, change, and abolish, ceremonies or rights of the church, ordained only by man's authority, so that all things be done to edifying."

* Young's Chron. of Mass., 295.

CHAPTER II.

THE COMPANY IN ENGLAND.

MEANWHILE, the company in England was very zealous in its efforts for the success of the colony. The royal charter afforded them much encouragement. Affairs, ecclesiastical and civil, were rapidly approaching a crisis. Charles, influenced by his French queen, who was a Catholic, pursued a much more tyrannical course against all who refused to conform than either of his predecessors, Elizabeth and James. All laws requiring conformity were rigidly enforced against the reformers by the Court of High Commission, and mildly against the papists. In civil affairs, especially within the last two or three years, Charles had acted with entire disregard of the public liberties. He exacted money from citizens, under the name of loans, and imprisoned those who refused to comply with his demands, and the king's bench refused to relieve them on *habeas corpus*. He billeted soldiers on private persons in time of peace, appointed commissioners for trials by martial law, and performed various other acts in disregard of the liberties of the people. He assumed absolute power. He called a Parliament in 1628, hoping through influence and intimidation to make it bow to his will. But the Commons,

representing the people, could not be purchased or intimidated. They presented a declaratory bill, called the Petition of Right, for the protection of persons arrested without legal cause. This bill, after ineffectual attempts at amendment by the peers, was passed by both houses, and was reluctantly consented to by the king. Soon after its passage, the Commons, as is customary, prepared a bill granting to the king the right to levy duties known as tonnage and poundage. The king had exercised the right without the consent of Parliament, claiming he was justified by precedents. The Commons delayed the passage of the bill that they might receive a reply from the king to a declaration they had prepared that the levying of tonnage and poundage not granted by Parliament was a breach of the fundamental liberty of the country. The king anticipated the passage of the declaration by proroguing Parliament. Upon the reassembling of the Commons, the king, finding that they were determined to pass the declaration, dissolved the Parliament.* This was six days after the grant of the royal charter to the Massachusetts Bay Colony, and the feeling which it excited throughout England gave an additional impulse to the movement of colonising America.

The patentees of the Roswell patent and twenty other persons named, with their associates, being such others as should be admitted and made free of the company, in perpetual succession, were to constitute the corporation.†

* See Hallam's *Const. Hist. England*, I., 380-386.

† *Mass. Records*, I., 3, and the Appendix.

The description given in the charter was: On the south a point three miles "to the south of the southernmost part of Massachusetts Bay," and a point three miles south of the Charles River, "or any and every part thereof;" on the north a point three miles "to the northward of any and every part" of the Merrimac, and all lands "lying within the limits aforesaid, north and south in latitude and breadth, and in length and longitude" from the Atlantic Ocean to the South Sea.

The officers of the company were a governor, deputy governor, and eighteen assistants, to be chosen annually from the freemen of the company, at a General Court or assembly to be held on the last Wednesday of Easter term of each year. To the governor and company was given power and authority to choose as many freemen as they shall think fit; to elect and constitute such officers as they shall deem requisite for the ordering, managing, and despatching the affairs of the governor and company, and in General Court assembled, "to make laws and ordinances for the good and welfare of the said Company and ordering of the said lands and plantation, and the people inhabiting and to inhabit the same, as to them from time to time shall be thought meet. So that such laws and ordinances be not contrary or repugnant to the laws and statutes of this our realm of England," and further, "from time to time to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, not contrary to the laws of this our realm of England, for the

settling of the forms and ceremonies of government and magistracy there," and to name the officers they shall appoint, define their duties and prescribe the administering of oaths to them. And to the officers of the company for the time being was given "full and absolute power and authority to correct, punish, pardon, govern, and rule the inhabitants according to laws not repugnant to the laws of England; also authority was given them at any time, for their special defence and safety, to encounter, repulse, repel, and resist by force of arms, any who shall "attempt the destruction, invasion, detriment, and annoyance of the said plantation or inhabitants."

The charter also authorised the company to transport to the colony any and all persons except such "as shall be hereafter by special name restrained by us," also arms, ammunition, food, clothing, cattle and merchandise necessary for their use and defence, and for trade with the people there, without payment of any duties on the same, or taxes in the plantation, for the term of seven years. It also provided that for twenty-one years there should be no import or export duties on any goods or merchandise to or from England or any of its dominions, excepting five per cent. duties upon such goods and merchandise as should be imported into England or any of its dominions, after seven years, "according to the ancient trade of merchants;" with the right to reship any such goods or merchandise for any place out of the English dominions, free of further duty. The charter also declares that "these, our letters patent, shall be construed, reputed and adjudged

in all cases most favourably on the behalf and for the benefit and behoof of the said governor and company and their successors."* The king, in the charter, appointed Matthew Cradock, governor ; Thomas Goffe, deputy governor ; and Sir Richard Saltonstall, Isaac Johnson, John Cook, John Humphrey, John Endicott, Simon Whitcomb, Increase Nowell, Richard Perry, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Adams, Thomas Hutchins, John Brown, George Foxcroft, William Vassall, and William Pynchon, assistants.

The first annual meeting under the charter was held May 13, 1629. The only change made in the officers of the company was the substitution of two new assistants in the place of Endicott and Brown, who were then out of the country.† At a session of the General Court held July 13, Governor Cradock read a proposition, "That for the advancement of the plantation, the inducing and encouraging persons of worth and quality to transplant themselves and families thither, and for other weighty reasons therein contained, to transfer the government of the plantation to those that shall inhabit there, and not to continue the same in subordination to the company here, as now it is." The subject was discussed, and all present were desired to put in writing their views upon the proposition and present the same at the next meeting, "and in the meantime they are desired to carry this business secretly, that the same be not divulged."‡ August 26, a

* Copy of the Charter in Mass. Records, I., 3 ; and in appendix.

† Mass. Records, I., 40.

‡ Ibid, 49.

mutual agreement in writing was made at Cambridge by Sir Richard Saltonstall, John Winthrop, Isaac Johnson, Thomas Dudley, John Humphrey, William Pynchon, Increase Nowell, Thomas Sharp, William Vassall, and others, that they would embark with their families for the plantation in New England by the first of March next, to inhabit and continue there; provided that, before the last of September next, the whole government, together with the patent for the said plantation, be first, by an order of the (General) Court, legally transferred and established, to remain with them and others who should inhabit upon the said plantation. The proposition of Governor Cradock was further discussed at meetings of the General Court, August 28 and 29, when it was voted by "general consent of the company that the government and patent should be settled in New England, and accordingly an order to be drawn up."* At a meeting of the General Court, held September 29, it was voted that a committee be appointed to take advice of learned counsel, whether the proposed transfer of the government and patent could be legally made, and to consider other things necessary, if the transfer should be made.† There is no record of a report from this committee, but it is probable that they obtained advice of counsel favourable to the transfer, as, in the subsequent meetings, no question was made of its legality.‡

* Mass. Records, I., 51. Young's Chron. Mass., 86, n.

† Ibid, 52.

‡ The company had acted largely upon the advice of John White, an

At a meeting of the General Court, October 20, 1629, the transfer of the government to New England having been fully decided upon, a new governor, deputy governor, and assistants, were elected. Mr. John Winthrop, Sir Richard Saltonstall, Mr. Isaac Johnson, and Mr. John Humphrey were nominated for the office of governor, and, according to the records, "Mr. Winthrop was, with a general vote, and full consent of this Court, by erection of hands, chosen to be governor for the ensuing year, to begin on this present day; who was pleased to accept thereof; and thereupon took the oath to that place appertaining." Mr. John Humphrey was then chosen in like manner deputy governor, and Sir Richard Saltonstall, Isaac Johnson, Thomas Dudley, John Endicott, Increase Nowell, William Vassall, William Pynchon, Samuel Sharp, Edward Rossiter, Thomas Sharp, John Revell, Matthew Cradock, Thomas Goffe, Samuel Aldersey, John Venn, Nathaniel Wright, Theophilus Eaton, and Thomas Adams were chosen assistants. It was afterwards resolved that the members of the company who were to remain in England should have a share in the trading stock and the profits of it, for the term of seven years, and the management of the stock was entrusted to Winthrop, Saltonstall, Johnson, Dudley, and Revell, who were to go over to New England, and Cradock, Wright, Eaton, Goffe, and Young, who were to remain in England. Arrangements in much detail were made in regard to the division of profits, but eminent lawyer, and it is probable that, as stated by early historians, he gave to the company an opinion favourable to the transfer.

the records do not show that any division was ever made.*

Frequent meetings of the General Court, and of the Court of Assistants, were held in the autumn and winter, at which arrangements were made for the satisfaction of the debt of the company, and for the purchase and hiring of vessels for the great emigration which was to commence in March. As the time of departure approached, the deputy governor, Mr. Humphrey, and Samuel Sharp, Mr. Wright, Mr. Eaton, and Mr. Goffe, of the assistants, resigned, and Thomas Dudley was elected deputy governor, and Roger Ludlow, Sir Brian Jansen, William Codrington, and Simon Bradstreet were chosen assistants in the place of those who resigned.†

The question of the right of the company to transfer its chief government to the plantation has been much discussed.

In the charters of all similiar companies, prior to that of the Massachusetts Bay Colony, requirements were made that the chief governments thereof should be and remain in England. They all, including the Massachusetts Bay charter, authorised the companies to make laws for the plantations, and to appoint such officers as they deemed necessary to administer and execute them on the place. The principal purpose of this was that the corporations should be within the jurisdiction of the courts in England. The requirement that the chief government

* Mass. Records, I., 59-65.

† Ibid, 69, 70. Sir Brian Jansen did not come over.

should be and remain in England was not made in the charter of the Massachusetts Bay Colony.

It is provided in the charter that the true meaning thereof should, in all cases, be construed most favourably to the company. As this requirement had been made in all prior charters, and was not made in the charter of the Massachusetts Bay Colony, it is to be inferred that the omission was made for a purpose; and there could have been no other purpose than to permit the company, in its discretion, to locate its chief government in England or in the plantation. Winthrop, in an article upon arbitrary government, written in 1634, discussed different clauses in the charter, and said:

“The last clause is for the governing of the inhabitants within the plantation. For it being the manner for such as procured patents for Virginia, Bermudas, and the West Indies to keep the chief government in the hands of the company residing in England (and so this was intended, and with much difficulty we got it absconded).” *

This makes it plain that the omission in the charter was not only intentional, but that the attention of the king and council was especially called to the subject, and that it was discussed and considered before the final decision was made.

According to this statement of Winthrop, the king and council intended to require that the chief government of the company should be and remain in England, the same as in the other charters, and they were prevailed upon

* *Life and Letters of Winthrop*, II., 442-3.

"with much difficulty" not to carry this intention into effect. Thus we have the facts that the requirement had been made in all previous charters, and was not made in this; that the change was intentionally made, with the full knowledge and consent of the king.

Two clauses in the charter have been referred to as showing that it was intended that the chief government of the company should be and remain in England; the one authorising certain officers to administer the oath of supremacy, and the other providing that the administering of oaths and imposing of penalties should be "according to the course of other corporations in this our realm of England." But the charter of Connecticut, granted in 1662, which has always been construed as authorising the chief government of the company to be in the colony, contains the same provisions.*

Reference has also been made to the course pursued by the Massachusetts Bay Company from April 30, 1629, to August 29, 1629, establishing and maintaining a government in the plantation, in subordination to the government in England, as tending to show that the company understood their charter to require that the chief government should be in England.

The right of the company to establish its chief government in the plantation did not depend upon its being immediately exercised. As the principal men of the company, those who had contributed the means for the enterprise, resided at the time in England, it could hardly

* See Preston's *Doc's Amer. Hist.*, 96.

be expected that they would give the entire control of the government and property to the men in the plantation. Under the authority in the charter to make laws and to appoint officers for the government of the plantation, they adopted the wisest and most prudent course, by continuing, with additional powers, the government on the place, under Endicott, reserving the control in their own hands until arrangements should be made by the principal members of the company to remove to the plantation.* How early active measures were taken for such removal is not known. The first information we have of it is from the proposition in writing made by Governor Cradock at a meeting of the General Court July 28, 1629, for the transfer of the government to the plantation. The injunction of secrecy at the time was undoubtedly from the fear that, if the purpose should be proclaimed, Charles, whose duplicity and faithlessness were proverbial, might be prevailed upon to attempt a change in the charter, or to claim that the authority was not intended in it.

The omission in the Massachusetts Bay Colony charter of a requirement that the chief government of the company should be and remain in England marked a change in the policy of England towards its colonies. Experience had shown the disadvantages to the colonies of being con-

* "He (Endicott) was fully instructed with power from the company to order all affairs in the name of the patentees, as their agent, until themselves should come over, which was at that time intended, but could not be accomplished till the year 1630."—Hubbard, 109.

trolled by companies residing in England, and the change thus made in the Massachusetts Bay Colony charter was followed in the subsequent charters of Connecticut, Rhode Island, and Maryland.*

In 1677, the two chief justices, Lords Rainsford and North, gave the opinion that the charter "made the adventurers a corporation upon the place." In 1679, Sir William Jones, as attorney-general, gave the opinion upon the claims of Mason, that the company transferred themselves and made a settlement upon said land "pursuant to the charter;" and his successor, Sir Robert Sawyer, who obtained the judgment against the charter on other grounds in 1684, gave it as his official opinion, that "the patent having created the grantees and their assigns a body corporate, they might transfer their charter and act in New England." †

Preparations for the great emigration having been made, the ship *Lion*, with eighty passengers, sailed from Bristol, and arrived at Salem in May, and the *Mary and John*, of four hundred tons, left Plymouth, March 20, with about one hundred and forty passengers from Devonshire, Dorsetshire, and Somersetshire, and arrived at Nantasket the last of May. They settled at Mattapan, now Dorchester. These ships sailed in advance of the fleet, which consisted of the *Arbella*, *Talbot*, *Ambrose*, *Jewell*, *Charles*,

* See Preston's *Amer. Hist.*, 62, 96, 110.

† See *Commonwealth vs. Roxbury*, Gray's *Mass. Reports*, Vol. 9, p. 451, and exhaustive notes by the reporter, afterwards Chief Justice of the Supreme Judicial Court of Massachusetts, and Justice of U. S. Supreme Court.

Mayflower, William and Francis, Hopewell, Whale, Success, and Trial. The first four, the others not being ready, sailed from Cowes, March 29, but, on account of storms and head winds, did not leave Yarmouth until April 8.* Governor Winthrop, Mr. Saltonstall, Mr. Johnson, Mr. Dudley, Mr. Phillips, Mr. Coddington, and others, from on board the *Arbella*, April 7, took leave of England by an address entitled "The humble request of His Majesty's loyal subjects, the governor and company late gone for New England. To the rest of their brethren in and of the Church of England. For the obtaining of their prayers, and the removal of suspicions and misconstructions of their intentions," in which they made a loving appeal to the fathers and their brethren of the Church for their sympathy and prayers, and said, "Yet we desire you would be pleased to take notice of the principals and body of our company, as those who esteem it our honour to call the Church of England, from whence we rise, our dear mother; and cannot part from our native country, where she specially resideth, without much sadness of heart and many tears in our eyes, ever acknowledging that such hope and part as we have obtained in the common salvation, we have received in her bosom and sucked it from her breasts. We leave it not, therefore, as loathing that milk wherewith we were nourished there, but blessing God for the parentage and education, as members of the same body, shall always rejoice in her good, and unfeignedly grieve for any sorrow that shall ever betide

* Chron. of Mass., 311 and notes.

her, and while we have breath, sincerely desire and endeavour the continuance and abundance of her welfare, with the enlargement of her bounds, in the Kingdom of Christ Jesus." They further ask for their prayers for a church springing out of their own bowels, and said, "You are not ignorant that the spirit of God stirred up the apostle Paul to make continual mention of the Church of Philippi, which was a colony from Rome; let the same spirit, we beseech you, put you in mind, that are the Lord's remembrancers, to pray for us without ceasing, who are a weak colony from yourselves, making continual requests for us to God in all your prayers."*

The address was made, not only to express the love of its authors for the Church of England, but for the purpose of removing misconstructions of their intentions, as the ecclesiastical proceedings in Salem were then fully known in England, and had probably been exaggerated by the Browns, who had returned some months before.

The address has been variously commented on by different writers. Some have construed the phrase "The Church of England" to mean, not the Establishment, but the aggregate of English Christians of all sects. But this is a forced construction. The address is plainly directed to the Establishment of the Church of England. Others have referred to it as written with the intent to deceive, by insincere expressions of love for, and loyalty to, the Church of England, when its authors had fully determined to establish for themselves an

* Mass. Chron., 295-298.

independent church system, claimed to be inconsistent with these professions, and contrary to their obligations to the English Church. These accusations have been made either through ignorance, or with a wilful disregard of the relations in which the nonconformists stood to the Established Church. The nonconformists detested the forms and ceremonies of the Establishment as adopted from the Roman Church, and the Bishop's Courts, and the Court of High Commission, through which their observance was enforced. They claimed that these forms and ceremonies were not authorised by Scripture—that they were the inventions of men, and that to observe them was idolatry. But this did not affect their regard for, or loyalty to, the Church itself. They were members of it; they subscribed fully to its doctrines and to the ecclesiastical unity upon which it was based. In all essentials they were sincere churchmen, and they did not love the Church itself less because of obnoxious forms and ceremonies imposed upon it. They lived in an age when it was the general belief that it was impossible for different sects to exist in the same community without such conflicts as would endanger the peace not only of the churches, but of society. The day of toleration had not dawned. To them, toleration was not only mischievous, but sinful.

Early in the reign of Elizabeth, the reformers returned a majority to the House of Commons, and so strong were they with the clergy, that, in the convocation of 1562, a proposition to abolish the most objectionable of the forms and ceremonies failed of adoption by only one vote, the vote being 59 to 58.

Parliament, in 1593, passed a statute which provided : That any person who obstinately refused to attend church, and persuaded others to withstand Her Majesty's ecclesiastical authority, or persuaded others not to go to church and to go to any unlawful conventicle, should be imprisoned until he conformed. If he did not conform within three months, he was to abjure the realm, and if, after abjuration, he did not leave the realm, or returned to it without license, he became guilty of felony without benefit of clergy. A statute previously passed, provided a fine and censures of the Church for any one who should neglect to attend public worship in the prescribed form, regularly.

CHAPTER III.

THE BEGINNING UNDER WINTHROP.

THE *Arbella* arrived at the entrance to Salem Harbour Saturday, June 12, 1630, passed through the narrow channel between Baker's and Little Island,* and anchored inside. Early Monday morning, there being head winds, the ship was warped into the inner harbour.† Winthrop, upon his arrival, found the colonists under Endicott in a state of great destitution, with provisions sufficient for only a few weeks.

About eighty of those who came over the preceding year had died, and others were weak and sick. By some negligence or misunderstanding, a portion of the provisions intended to be brought over were not shipped, and the supply was so limited that they were obliged to discharge from their indentures one hundred and eighty servants who had been sent over in the two preceding years.

The *Jewell* arrived at Salem the same day as the *Arbella*, and within the next four weeks, the *Mayflower*, *Whale*, *Talbot*, and *Trial* arrived at Charlestown, and the *Hopewell*, *William and Francis*, and *Success*, at Salem.

* Now known as Little Misery Island.

† Now Salem Harbour.

The other ships arrived soon after. The number of immigrants that arrived before the end of the year is estimated by Hutchinson as above fifteen hundred.

Thursday, after his arrival at Salem, Winthrop, with some of his principal associates, went to "Massachusetts," to select a suitable place for a fortified settlement. They went first to Charlestown, and from there explored the neighbouring country, and decided upon a place on the Mystic, as the best location for the purpose. They spent one night with Maverick, at Winnisimmet, and returned to Salem the following Saturday.* Another exploration party was afterwards sent, which preferred a place on the Charles, afterwards called Newtown, now Cambridge. This place was agreed upon for the settlement, and early in July the supplies and ordnance were reshipped and sent to Charlestown, from which place they were to be taken to Cambridge.

Winthrop, Dudley, Johnson, Ludlow, Nowell, Pynchon, and Bradstreet, who took with them the charter; and Messrs. Wilson and Phillips, the ministers, together with the body of the recent immigrants at Salem, arrived at Charlestown early in July. Many of the company were sick with scurvy and fevers, contracted on the voyage, and, upon consultation, it was decided to abandon, for the present, their purpose to proceed to Cambridge; that some should remain at Charlestown, and others select suitable places in the neighbourhood for the erection of cottages, and make other provisions for the winter. Accordingly

* Winthrop I., 27. Frothingham's Hist. Charlestown, 40-48.

Winthrop and some of the assistants took possession of the "great house," and the rest of the company lived in tents and booths, and some commenced the erection of cottages. The meeting place was under a tree, where Wilson and Phillips preached.*

Soon after, Saltonstall and a company, with Mr. Phillips as their minister, removed to Watertown. Pynchon with another company settled at Roxbury; another party removed to Mystic, which they named Meadford, where servants, sent over by Cradock the year before, had made a settlement. Others removed to Boston and to Lynn. Thus the first year there were settlements in eight places, Salem, Lynn, Charlestown, Watertown, Mystic, Boston, Roxbury and Dorchester.

Upon landing the supplies from the vessels, it was found that a considerable portion of the provisions had been spoiled on the passage; and in August Winthrop despatched the ship *Lion* to the nearest port in Ireland or England, to purchase provisions, to return as speedily as possible.

Great mortality prevailed among the immigrants, and before December two hundred persons died.† This, with the scarcity of provisions, caused great despondency; and

* "They lived many of them in tents and wigwams at Charlestown, their meeting place being abroad under a tree, where I have heard Mr. Wilson and Mr. Phillips preach many a good sermon."—Clap's Memoirs, Young's Chron. of Mass., 351.

† In Massachusetts Bay, as at Plymouth, many persons died soon after their arrival, from diseases contracted on board ship. After the first year there was but little sickness among the survivors in either place.

on the return of the ships, about one hundred of the newcomers left for England, and some others removed to Piscataqua, now Portsmouth. Mr. Bright, the minister of Charlestown, and Mr. Vassall, one of the assistants, were among those who returned. Dudley, in a letter to the Countess of Lincoln, in March following, wrote, that most of those who left were disaffected on account of the rigid discipline to which they were subjected, and that the colony suffered no detriment from their return.*

In August or September, Mr. Isaac Johnson, one of the assistants, settled at Boston, intending to make it his permanent residence, and died there September 30; his wife, the lady Arbella, died in Salem in August.† Soon after his death, it was decided by Winthrop and the assistants at Charlestown that Boston was a preferable place to live in for the winter. Winthrop took over the frame of a house he had constructed at Charlestown; and the last of October, or early in November, Winthrop, Dudley, and

* Dudley's letter in Young's Chron. Mass., 315.

† Prince, in his Annals of New England, 319, states: "And the late Chief Justice Samuel Sewall Esq. informed me that this Mr. Johnson was the principal cause of settling the town of Boston, and of its becoming the metropolis, and had removed hither; had chosen for his lot the great square lying between Cornhill on the Southeast, Tremont Street on the Northwest, Queen Street (now Washington Street) on the Northeast, and School Street on the Southwest; and on his death-bed desiring to be buried at the upper end of his lot, in faith of his rising in it. He was accordingly buried there; which gave occasion for the first burying place of this town to be laid out round about his grave."

This is now King's Chapel Burial-ground. There is nothing to mark the spot where he was buried.

others of the assistants, with their families, together with most of the people at Charlestown, crossed over and erected cottages there. Some idea of the accommodations in the cottages that were built can be obtained from the letter of Deputy Governor Dudley, in which he described the condition of the colonists ; which, he wrote, he " must do rudely, having yet no table, nor other room to write in than by the fireside upon my knee, in this sharp winter ; to which my family must have leave to resort, though they break good manners, and make me many times forget what I would say, and say what I would not."*

Mr. Wilson was ordained minister, or teaching elder, at Charlestown, August 27, but soon moved to Boston. He was ordained with the same ceremonies as those at Salem. Winthrop, describing the ordination, writes : " We used imposition of hands, but with this protestation by all, that it was only as a sign of election and confirmation, not of any intent that Mr. Wilson should renounce his ministry he received in England."†

The charter provides for meetings of the governor, deputy governor, and assistants once a month, or oftener, at their pleasure to hold a court, " for the better ordering and directing of their affairs ; " and that at such courts seven of the assistants with the governor or deputy governor should constitute a quorum " for the handling, ordering or dispatching of all such business and occurrents as shall from time to time happen, touching or concerning the said company or plantation." All other powers were

* Young's Chron. Mass., 303.

† Winthrop, I., 32, 33.

given in the charter to the governor and company, consisting of the governor, deputy governor, assistants and freemen ; who were four times each year to hold "a great general and solemn assembly, which four general assemblies shall be styled and called the four great and general courts of the said company." The style adopted was "The General Court."

The governor, and in his absence the deputy governor, was authorised to call all meetings of the company, at which meetings it was required that there should be present the governor or deputy governor, and six assistants, who, with the freemen present, were to act by a majority vote of all.*

The first meeting in the colony of the Court of Assistants was held at Charlestown, August 23. At this meeting, it was ordered that houses be built for Mr. Wilson and Mr. Phillips, at the public charge, with convenient speed. Winthrop undertook to see that one was built at Charlestown for Mr. Wilson, and Saltonstall that one was built at Watertown for Mr Phillips. It was further ordered that, for his maintenance, Mr. Phillips should have allowed him three hogsheads of meal, one hogshead of malt, four bushels of Indian corn, one bushel of oat meal, one-half a hundred of salt fish ; and for apparel and other provisions, twenty pounds ; or forty pounds in money per annum, if he should prefer it, and he find his own provisions ; the year to begin the first of September next. It was also ordered for Mr. Wilson that he should

* Mass. Records, I., 11, and the Appendix.

have twenty pounds per annum until his wife came over, to begin the tenth day of July past, all to be a common charge, "those of Mattapan and Salem only exempted."*

Provision was also made for the support, at the public charge, of Mr. Gager, physician, and James Penn, beadle, whose employment was to wait upon the governor, and to execute his commands in public business. The course of proceeding in the commencement of all civil actions was prescribed, the wages of skilled labourers were regulated, and the governor, deputy governor and Saltonstall, Johnson, Endicott, and Ludlow of the assistants, were appointed justices of the peace, with the powers of the justices of the peace in England for reforming abuses and punishing offences, with authority to imprison offenders; but no justice could inflict corporal punishment without the presence and consent of another assistant. It was also ordered "that Morton of Mount Woliston should presently be sent for by process."† At the next meeting of the court held at Charlestown, September 7, it was ordered that Thomas Morton be set in the bilboes and afterwards sent to England in the ship *Gift*; that all his goods be seized to repay the expense of his transportation, the payment of his debts, and to give satisfaction to the Indians for a canoe which he unjustly took from them, and that his house be burned in the sight of the Indians for their satisfaction for the wrongs he had done them. Provision was also made for the support, at the public charge, of Captains Patrick and Underhill; and it was

* Mass. Records, I., 73.

† Ibid, 74.

ordered that no one should plant in any place without leave of the governor and assistants; and a warrant was issued to command those who had planted at Agawam, now Ipswich, to leave the place.* At another meeting held at Charlestown, September 28, it was ordered that no person should employ or permit any Indian to use any firearms on any occasion; that no servant should sell or take any commodity without his or her master's license; that no person should sell or send any Indian corn to any Englishmen outside the colony, or to any Indian, without license from the governor and assistants; and that all of Richard Clough's strong water be seized, for the reason he had sold quantities of it to servants, which was the occasion of much disorder, drunkenness, and misdemeanour. It was also ordered that there should be collected, and levied by distress, from the several plantations, specified sums, for the maintenance of Captains Patrick and Underhill. The same day an inquest was held upon the body of William Bateman, before Winthrop, governor, and Isaac Johnson, assistant and justice of the peace. The jury presented that "he died by God's visitation;" and September 28, a jury was impanelled to inquire concerning the death of Austin Bratcher. The jury found that the death was occasioned by blows inflicted by Walter Palmer, and presented that he was guilty of manslaughter.†

The first quarter-annual session of the General Court was held at Boston, October 19. No freemen had been

* Mass. Records, I., 75, 76.

† Ibid, 78.

admitted, except a few in England before the departure of the company, and the governor, deputy governor, and assistants constituted a majority, if not all, of the members present. The Court of Assistants had, to this time, exercised exclusive control in the affairs of the company, had passed laws, appointed officers, tried causes, civil and criminal, punished offenders, held inquests, and levied taxes, which could only be justified by the exigencies of the time, as the General Court had passed no laws or orders for governing the people.

At this meeting of the company, one hundred and nine persons applied for admission as freemen.* Those in authority were alarmed. They deemed it necessary for the success, and even the existence of the colony, that the rigid and exclusive policy they had marked out should be followed, and that, with a scattered population, composed largely of servants free from the moral restraints of a settled community, the strictest discipline must be enforced. By the charter, the General Court, to which the law-making power was entrusted, was to be composed of the freemen who were to transact all public business at general meetings, by the majority vote of those present. It was a pure democracy, without checks or restraint. It was felt that if all who applied should be admitted as freemen, the majority of the General Court would be composed of men inexperienced and unfitted for the important duties of the place; yet they could not refuse to admit additional freemen, as it would leave the great body of the people disfranchised.

* Mass. Records, I., 79, 80.

The question presented itself to those in authority, whether they should follow the letter of the charter, and thereby imperil the future of the colony, or attempt, by forced construction, to accommodate its provisions to what they deemed necessity required; and they decided to admit freemen, but to abridge their powers. Their decision is embodied in the vote of the court, which is as follows: "For the establishing of the government. It was propounded if it were not the best course that the freemen should have the power of choosing assistants when there are to be chosen, and the assistants from amongst themselves to choose a governor and deputy governor, who, with the assistants, should have the power of making laws and choosing officers to execute the same. This was fully assented unto by the general vote of the people, and erection of hands."* None were admitted as freemen at this session, and it will be noticed that the assent was not by the freemen, but by the people. This left to the freemen only the right to elect assistants, and as there was but little opportunity for the freemen of the different plantations to consult together before the meetings of the General Court, there would be but little danger of change in the *personnel* of the administration.

Two sessions of the Court of Assistants were held at Boston in November. At the first session, Walter Palmer, who had been presented, was tried by the jury and acquitted, and, at the second session, Mr. Saltonstall was fined five pounds, "for whipping two several persons,

* Mass. Records, I., 79.

without the presence of another assistant, contrary to an act of court formerly made."* The same month, "two gentleman passengers," who arrived at Plymouth in the ship *Handmaid*, came to Boston with Captain Standish, to plant there, "but having no testimony," the assistants refused to receive them.† There is no record of any session of the Court of Assistants in the winter, but informal meetings were held in December, at which it was first decided to build a fortified town on the neck between Boston and Roxbury, which was afterwards reconsidered, and at a meeting at Watertown, December 28, it was agreed that all the assistants excepting Endicott and Sharp, who was to return to England, should, in the spring, build houses at Newtown, now Cambridge, and that the ordnance and ammunition be removed there, with the view to build a fortified town.‡ The winter was very severe, and there was such a scarcity of provisions that many were, for a time, compelled to subsist upon clams and muscles, and bread made from groundnuts and acorns. February 6 was appointed for a fast, but the ship *Lion* arrived with provisions February 5, which caused the substitution of a thanksgiving for it on February 22.§

Early in the spring, Winthrop and Dudley commenced the building of houses at Cambridge; but Winthrop, before his house was finished, decided, at the earnest solicitation of the Boston people, to remain there. This

* Mass. Records, I., 81, 82.

‡ Young's Chron. Mass., 320.

† Winthrop, I., 38.

§ Winthrop, I., 50.

caused ill feeling on the part of Dudley, who claimed that Winthrop had broken his promise to build at Cambridge. Winthrop replied that he had acted rightly; that he had built a house at Cambridge, as he had agreed, but that the rest of the assistants had declined to build there; and that he had promised his neighbours in Boston he would not leave them, unless the other assistants did.* At another time Winthrop complained to Dudley "that he did not well to bestow such cost about wainscoating and adorning his house, in the beginning of a plantation, both in regard of the necessity of public charges, and for example." Dudley replied "that it was for the warmth of his house, and the charge was little, being but clapboards nailed to the wall in the form of wainscoat.†" This ill feeling on the part of Dudley continued, and near the end of the second year he tendered a resignation of his office.‡

Sessions of the Court of Assistants were held in March and in April. At the first session it was ordered that Sir Christopher Gardiner and Mr. Wright be sent, as prisoners, to England, in the ship *Lion*; and that six other persons named should be sent to England, in the same ship, or in the next ship after, "as persons unmeet to inhabit here."§ At the second session, the number of assistants had been so reduced by death and return of members to England, that it was difficult to procure the attendance of seven at any session, which number was

* Winthrop, I., 82.

† Ibid, 72.

‡ Ibid, 73.

§ Mass.Records, I., 82, 83.

prescribed as a quorum, in the charter; and it was ordered that, when the number of assistants should be less than nine, a majority of them might hold a court.* At a session held April 12, the court was called upon for the first time to deal with a dissenter from the ecclesiastical polity which had been inaugurated. Mr. Roger Williams, a radical Separatist minister, arrived at Boston in the ship *Lion*, in February. After some experience in Boston he removed to Salem, and was there called to the office of teacher, made vacant by the death of Mr. Higginson; and at this session of the Court, according to Winthrop ("Upon information to the governor, that they of Salem had called Mr. Williams to the office of a teacher), a letter was written from the Court to Mr. Endicott to this effect: That whereas Mr. Williams had refused to join with the congregation at Boston, because they would not make a public declaration of their repentance for having communion with the churches of England while they lived there; and, besides, had declared his opinion, that the magistrate might not punish the breach of the Sabbath, nor any other offence, as it was a breach of the first table; therefore they marvelled they would choose him without advising with the council; and withal desiring him that they would forbear to proceed till they had conferred about it."† Mr. Williams soon after left Salem for Plymouth, where "he exercised his gifts amongst them, and after some time was admitted a member of the church; and his teaching well approved."‡ At the same session of the

* Mass. Records, I., 84.

† Winthrop, I., 53.

‡ Bradford, 310.

Court, it was ordered, that every captain shall train his company on Saturday in every week,* and it was afterwards ordered that there should be a general training once a month.† At a session of the Court, May 3,‡ Thomas Walford, of Charlestown, was fined ten pounds, and, with his wife, ordered to depart out of the limits of the patent before October 30 next, “for his contempt of authority and confronting officers.” At the same session, an action by Thomas Dexter against Mr. Endicott for assault and battery was tried by a jury, who found for the plaintiff and assessed damages in the sum of ten pounds.§

Several persons, including Mr. Saltonstall and a portion of his family, and Mr. Wilson and Mr. Coddington, who were to bring back their families, returned to England in the ship *Lion*, which sailed from Salem April 1. Mr. Wilson appointed Winthrop, Dudley, and Nowell the ruling elder, to preach to his congregation in his absence. ||

The first session of the General Court for elections in the colony was held at Boston, May 18, 1631. At this session, one hundred and sixteen persons, including most of those who applied at the October session, took the oath and were admitted as freemen. It does not appear that they took any part at this session; perhaps they were not admitted until the business of the session had been concluded. It seems to have been deemed necessary by those in authority to strengthen the position they had

* Mass. Records, I., 85.

† Ibid, 86.

|| Ibid, 50.

‡ Ibid, 90.

§ Winthrop, I., 49-51.

taken at the previous session ; and, according to the record,—“For explanation of an order made the last General Court, holden the 19 of October last, it was ordered now, with full consent of all the commons then present, that once in every year, at least, a General Court shall be holden, at which court it shall be lawful for the commons to propound any person or persons whom they shall desire to be chosen assistants, and if it be doubtful whether it be the greater part of the commons or not, it shall be put to the poll. The like course to be holden when they, the said commons, shall see cause for any defect or misbehaviour, to remove any one or more of the assistants.” *

The meaning of this was, that the present members of the Court of Assistants should continue in office, unless removed by the freemen for defect or misbehaviour ; and that for additional members, the freemen might propose candidates, whose names should be submitted to the General Court, to be voted for. In accordance with this order, no assistants were voted for at this session ; but Winthrop was chosen governor, and Dudley deputy governor, by the general consent of the Court, although at its previous session the power to elect these officers was delegated to the assistants.

Another important step was taken with a view to retaining the reins of government in the hands of the better portion of the community, by the adoption of the following order : “And to the end the body of the com-

* Mass. Records, I., 87.

mons may be preserved of honest and good men, it was likewise ordered and agreed that for time to come no man shall be admitted to the freedom of this body politic, but such as are members of some of the churches within the limits of the same." * That there should be no misunderstanding as to what churches were intended, the General Court, in 1636, declared that it would not approve of any church, unless it should have the approbation of the magistrates and of the elders of a majority of the churches within the jurisdiction ; and it was further ordered, "that no person, being a member of any church which shall hereafter be gathered without the approbation of the magistrates and the greater part of the said churches, shall be admitted to the freedom of this Commonwealth ;" † and in 1637 it was ordered that none but freemen should be appointed captains or other inferior officers of the train bands ; the conclusion of which order was, "for it is the intent and order of the Court that no person shall henceforth be chosen to any office in the Commonwealth but such as is a freeman." ‡

Early in the summer of 1631, Mr. Phillips, the pastor, and Mr. Brown, the elder of the church at Watertown, published an opinion that the churches of Rome were true churches. Whereupon, the governor and deputy, Mr. Nowell, the elder, and some of the members of the church at Boston, visited Watertown, and met with Mr. Phillips and Brown, and their congregation. The subject was debated, when, by a vote of all present except three, "it

* Mass. Records. I., 87.

† Ibid, 168.

‡ Ibid, 188.

was concluded an error.”* But Brown persisted in his opinion, and maintained “other errors,” of which the Court of Assistants took notice, and addressed a letter to the pastor and brethren of the Watertown church, advising them to consider whether Brown was fit to be continued their elder. After considering the matter for several weeks, a reply was made that if they would prove such things as were objected against him, they would endeavour to redress them. The congregation was divided on the subject, and, in December, both parties applied to the governor for assistance. Whereupon the governor, deputy governor, and Mr. Nowell again met with the congregation at Watertown. The governor stated to the assembly that he and his associates would act in one of three capacities — as magistrates who had been invited to assist, as members of a neighbouring congregation, or with reference to the answer they had made to the letter from the assistants, which did not satisfy them. Mr. Phillips desired that they would sit with them as members of a neighbouring congregation only, to which the governor consented. After much debate, the parties became reconciled, and agreed to seek God in a day of humiliation, each party promising to reform what had been amiss, and the pastor gave thanks to God, and the assembly was dismissed.† But the strife in the Watertown congregation continued, and in July next, 1632, the Court of Assistants “gave the Separatists a day to come in or else to be proceeded against.” On the day appointed,

* Winthrop, I., 58.

† Ibid, 67, 68.

all came in and submitted except John Masters, who, though he was advised by divers ministers and others that he had offended, "in turning his back upon the sacrament, and departing out of the assembly, etc., because they had then admitted a member whom he judged unfit, etc., yet he persisted." A time was given him to consider the matter, but continuing obstinate, they excommunicated him. "But about a fortnight after, he submitted himself, and was received in again." *

Another question was raised by Watertown, in February, 1632. A warrant had been sent to levy eight pounds, the proportion for Watertown of a tax of sixty pounds ordered for the expense of fortifying at Cambridge. The pastor and elder, at an assembly of the people, expressed the opinion "that it was not safe to pay monies after that sort, for fear of bringing themselves and posterity into bondage." They claimed that the government, meaning the Court of Assistants, had only the powers of the mayor and aldermen of a city, and could not make laws, or levy taxes without authority from the people.

The Court of Assistants cited the pastor and elder by letter, and the people by a warrant, to a session of the court to be held at Watertown, at which court the answer was made to the claim of the pastor and elder, that the Court of Assistants was in the nature of a parliament; that assistants could only be elected by the freemen, who had the right to remove them and elect others in their places, and that at every General Court the freemen had

* Winthrop, I., 81.

the right to consider and propound anything regarding the government, and to declare their grievances freely. The Court of Assistants was plainly in error in assuming that it had parliamentary powers. All legislative authority, including the power to lay taxes, resided in the General Court, to be exercised by the freemen at its sessions. These powers could not be legally delegated to any other body. But the explanation made by the court, for the time, fully satisfied the people, and they made a retraction and submission under their hands, and were enjoined to read it in the assembly the next Lord's day, which submission was accepted, and their offence pardoned.*

The order passed by the General Court, restricting the rights of the freemen in the election of governor and assistants, was looked upon by the people as an unjustifiable assumption of power.

At a meeting of the Court of Assistants held at Boston, April 12, Winthrop stated "that he had heard that the people intended at the next General Court to desire, that the assistants might be chosen anew every year," and that the governor be elected by the freemen, and not by the assistants. One of the magistrates, in a passion, said that they should have no government, but every man could do as he pleased. This was replied to, to the satisfaction of the rest of the assistants, but did not convince the refractory member, who protested that if done, he should return to England.†

It is evident that the Court of Assistants was satisfied

* Winthrop, I., 70.

† Ibid, 74.

that the position taken by the people was a correct one, and at the session of the General Court in May following, "it was generally agreed upon, by erection of hands, that the governor, deputy governor, and assistants should be chosen by the whole court of governor, deputy governor, assistants, and freemen, and that the governor shall always be chosen out of the assistants."* The freemen found no fault with the manner in which the government had been administered. They desired only to assert and maintain their rights under the charter. They were satisfied with the vote that was passed, and re-elected the governor "and all the rest as before,"† adding to the assistants, Humphrey and Coddington, who were daily expected, and John Winthrop, Jr., son of the governor.

The question of the right of the Court of Assistants to lay taxes without the consent of the people, which had been started at Watertown, although temporarily disposed of, was evidently made a live issue with the freemen there and in other places before the annual session of the General Court, to which the attention of the governor and assistants was called; and at the session which was held in May, the assistants wisely concluded to make concessions to satisfy the freemen on the subject; and an order was passed, apparently by general consent, "that there should be two of every plantation appointed to confer with the court about raising of a public stock,"‡ and the appointments were made at the session. The

* Mass. Records, I., 95.

† Winthrop, I., 75.

‡ Mass. Records, I., 95.

purpose of this order was to have a representation from the freemen to advise with the Court of Assistants in the laying of taxes. It was a step towards the organisation of two branches of the General Court, in imitation of the English system — the one to represent the aristocracy and the other the body of the freemen. A line between the two classes had already been drawn. The assistants, exercising judicial powers, were also known as the magistrates; and all others as freemen, or the commons. At this session, Dudley submitted the validity of his resignation to the General Court, and it was voted to be a nullity. He accepted his place again; and according to Winthrop, "all things were carried very lovingly amongst all, and the people carried themselves with much silence and modesty." *

The number of immigrants in the year 1632 was about two hundred and fifty. Of those who came over, were Mr. Wilson and family; Richard Dummer, afterwards assistant, and treasurer of the colony, and one of the first settlers of Newbury; Mr. Thomas Weld, who soon after his arrival was ordained minister at Roxbury; Timothy Haverly, one of the first settlers at Scituate; Mr. Stephen Bachelor, who, although looked upon with distrust at the time of his arrival, was allowed to officiate as pastor in Lynn and several other places; and Mr. Thomas James, who was ordained minister at Charlestown. Mr. John Eliot, who came over the preceding year, was appointed teacher at Roxbury. † Mr. Eliot is known as the

* Winthrop, I., 76.

† Ibid, 77, 78, 93.

Apostle to the Indians. Upon his settlement at Roxbury he took a very deep interest in the welfare of the savages ; and devoted a large part of a long life in educating them and improving their condition. He learned to speak in their tongue, and to preach to them without the aid of an interpreter ; and soon was able to reduce their language to such method as to translate into it the Bible and other books.

In July, Dudley renewed his complaints against Winthrop before a meeting of the elders. They consisted principally of charges that he had exceeded his authority as chief executive of the colony in several instances. But there was nothing proved that reflected upon the honour or integrity of the governor ; and all that he had done he might well justify under the circumstances in which he had been placed. The hearing resulted in a reconciliation of the governor and deputy, and they "ever after keep peace and good correspondency together in love and friendship." *

The same month the congregation at Boston sought the advice of the elders and brethren of other churches upon the question, whether a person could, at the same time, hold the office of a civil magistrate and a ruling elder ; if not, then which office should he resign ; also if there might be more than one pastor of any church. They replied in the negative to the first question, and doubtful as to the others.†

In the winter intelligence was received that the French,

* Winthrop, I., 82, 89.

† Ibid, 81.

who were in possession of Acadia, had rifled a trading house on the Penobscot belonging to the Plymouth people, and apprehensions were felt that they intended to push their settlement further south, and interfere with the settlements of Massachusetts Bay; and at a meeting of the Court of Assistants it was decided that the fort begun at Roxbury should be finished; "also that a plantation should be begun at Agawam (being the best place in the land for tillage and cattle), lest an enemy, finding it void, should possess and take it from us." John Winthrop, Jr., was deputed to commence the plantation, with twelve men, more to be supplied on the next arrival of ships.*

In the meantime, Morton, Gardiner, and Ratcliff, supported by Mason and Gorges, had prepared and presented a petition to the lords of the Privy Council, alleging that there was much distraction and disorder in the New England plantations. Upon the hearing on the petition, at the court at Whitehall, Sir Richard Saltonstall, Mr. Cradock, Mr. Humphrey, and Emanuel Downing appeared for the colony. "The principal matter they had against us," says Winthrop, "was the letters of some indiscreet persons among us who had written against the church government in England, etc., which had been intercepted.†" The Privy Council made an order on the petition, of date

* Winthrop, I., 99.

† "The form of the attack gave peculiar significance to Williams' conduct, since it was based on intercepted letters in which some of the colonists had denounced the church government of the mother country." Doyle's Puritan Colonies, I., 118.

January 19, 1633, in which it is stated, in substance, that they had heard the parties ; that most of the charges were denied, which would require witnesses from the place ; that men, provisions, and merchandise were being despatched there, and that all would be at a stand if the colonists should suspect that the government did not have a good opinion of the plantation ; that they did not lay the fault or fancies of some individuals upon the government, or principal men there ; that in due time the matter would be further inquired into ; and they declared that, in the meantime, it was so probable that the plantation would prove beneficial to the kingdom and profitable to the adventurers, that they had cause to go on cheerfully, and to "rest assured if things were carried on as pretended when the patents were granted, and accordingly as by the patent it is appointed, His Majesty would not only maintain the liberties and privileges heretofore granted, but supply anything further that might tend to the good government, prosperity, and comfort of his people there."*

Upon receipt of information of these proceedings, the governor and assistants prepared and sent to England an answer to the petition, and with it a statement signed by the old planters, concerning the manner in which affairs had been conducted here.†

The year 1633 was comparatively uneventful in the colony. At the annual session of the General Court in May, but little was done except to re-elect the governor, deputy governor and assistants. But immigration was

* Hubbard, 152. Winthrop, I., 103.

† Winthrop, I., 106.

increasing. This year about seven hundred persons arrived. Among them were Mr. John Cotton, Mr. Hooker, and Mr. Samuel Stone, ministers; Mr. Haynes, Mr. Goffe, and Mr. Pierce, "men of good estates."* Mr. Cotton was chosen teacher of the congregation at Boston, and ordained by impositions of hands, October 10, and the next day Mr. Hooker was chosen pastor and Mr. Stone teacher of the congregation at Newtown, and were ordained in the same manner that Mr. Cotton had been.†

Probably Oldham had become reconciled to the government, as he was admitted as freeman in 1631. Oldham, who had settled at Watertown, was appointed on the committee upon public stock for Watertown in 1632, and was afterwards elected deputy from that town, and had a grant of five hundred acres of land made to him.‡

In April, 1634, it was ordered by the Court of Assistants that lands granted, which were not built upon or improved within three years, should be forfeited. It was also ordered that a committee of each town should survey the lands which had been granted to individuals, and make an entry of the same in a book to be kept for the purpose.§

The punishments inflicted for offences in the nearly three years that had elapsed since the arrival of Winthrop, were fines, whipping, setting in the stocks or "bilboes," banishment, and, in case of Ratcliff, the cutting off his ears, fine, and banishment, "for uttering malicious and scandalous speeches against the government and the Church of

* Winthrop, I., 109.

‡ Mass. Records, I., 95, 114.

† Ibid, 114, 115.

§ Ibid, 114, 116.

Salem." * In one other case, the branding on the cheek of Richard Hopkins for selling guns and ammunition to the Indians,† and in another, the branding in the hand of Nicholas Frost, for stealing from the Indians, and other specified offences.‡ These punishments at the present time would be deemed in the highest degree cruel and indefensible, but it should be remembered what the punishments for offences were at that time in England. The cutting off of hands and ears, the slitting of the nose, and branding, were usual punishments for what were deemed the higher class of crimes. Disobedience of the mandates of the Church, speaking contemptuously of its bishops or ministers, were offences scarcely less than those of treason. A marked instance of punishment for an offence against the Church occurred in the summer of 1630, a few months after the grant of the charter to the Massachusetts Bay Colony. Dr. Leighton published, in England, a book entitled "An Appeal to Parliament, or Sion's Plea against Prelacy," in which he maintained that God's children were subjected to a most cruel persecution; that the bishops were men of blood; that prelacy was anti-Christian and satanical; that the queen was a daughter of Heth; and that the king was abused by the bishops to the undoing of himself and his people. At the instigation of Laud, to whom the king had committed the government of the Church, Leighton was brought before the lords in the Star Chamber; his plea that he had written through zeal and not malice was disregarded. He was

* Mass. Records, I., 88.

† Ibid, 99.

‡ Ibid, 100.

sentenced to pay a fine of ten thousand pounds, was degraded from the ministry, publicly whipped in the palace yard, placed in the pillory for two hours, had an ear cut off, a nostril slit open, and a cheek branded with the letters s. s., to denote a sower of sedition. At the expiration of a week he underwent a second whipping, was again placed in the pillory, had his other ear cut off, his other nostril slit, and his other cheek branded. He was then sentenced to imprisonment for life; and it was only at the end of ten years that he obtained his liberty from the Parliament, then in arms against Charles.*

* Rush, II., 56. Lingard Hist. England, IX., 306 and 307, and for other similar punishments, Lingard, IX., 318-326.

Blackstone, nearly a century later, says, "It is a melancholy truth, that among the variety of actions which men are daily liable to commit, no less than one hundred and sixty have been declared by act of Parliament to be felonies without benefit of clergy; or, in other words, to be worthy of instant death."—Blackstone's Commentaries, Ed. 1803, Book IV., 19.

CHAPTER IV.

THE DEFIANCE OF THE KING.—TROUBLE WITH ROGER WILLIAMS.

THE year 1634 was an eventful one in the history of the colony. There was much uneasiness felt by the freemen in regard to the powers exercised by the Court of Assistants. After the notice of the annual meeting of the General Court in May had been issued, each town elected three representatives who were to meet with the representatives from other towns to consider the business to be transacted at that court. They met, probably, on the morning of the first day of the session, which was held in the meeting-house in Boston, when they "desired a sight of the patent," and came to the conclusion that under it the law-making power was vested in the General Court. Upon which they repaired to the governor to advise with him about it, and about some orders that had been made. The governor stated to them that when the patent was granted it was supposed that the number of freemen would be so small that they might well join in the making of laws, but they had grown into such a large body that it was not possible for them to make or execute laws; that hereafter it would be necessary to have persons selected for the duty, but that at present there was not a sufficient number of

men qualified for the business ; and he proposed for the present, that an order be passed that once a year, after summons from the governor, representatives should be chosen to revise the laws, and to reform what they found amiss in them ; that they should not make new laws, but prefer their grievances to the Court of Assistants ; and that no tax be laid or land disposed of, without the consent of such representatives.*

These views of the governor were evidently unsatisfactory to the deputies, who were determined to assert and maintain the rights of the freemen under the charter.

The feeling upon the subject was increased by the election sermon by Mr. Cotton, in which he laid down the doctrine "that a magistrate ought not to be turned into the condition of a private man without just cause, and to be publicly convict, no more than the magistrates may not turn a private man out of his freehold, etc., without like public trial, etc." † The deputies determined to make a test of their authority, by an effort to make a change in the office of governor. The vote for governor was taken by "papers," and not by "rising of hands," as theretofore,‡ and resulted in the election of Mr. Dudley in place of Mr. Winthrop. Mr. Ludlow was chosen deputy governor, and Mr. Coddington, treasurer. The deputies were satisfied with this change, as a vindication of the rights of the freeman, and they re-elected the assistants, excepting Mr. Ludlow, who had been chosen

* Winthrop, I., 128, 129.

† Ibid, 132.

‡ Ibid, 132, n.

deputy governor, and Mr. Saltonstall, who was in England, and added to them Mr. Winthrop and Mr. Humphrey, who was on the way over, and who arrived in June.

The General Court continued in session three days.

At this session it was voted, "that none but the General Court hath power to choose and admit freemen," which power had heretofore been assumed by the Court of Assistants. Also, "that none but the General Court hath power to make and establish laws, nor to elect and appoint officers, as governor, deputy governor, assistants, treasurer, secretary, captains, lieutenants, ensigns, or any of like moment, or to remove such upon misdemeanour, as also to set out the duties and powers of the said officers." Also, "that none but the General Court hath power to raise moneys and taxes, and to dispose of lands, viz., to give and confirm proprieties." Also, "that there shall be four general courts held yearly, to be summoned by the governor for the time being, and not to be dissolved without the consent of the major part of the court." It was also ordered that the freemen of each town may, before the annual session of the General Court, choose two or three persons who shall meet and confer, and prepare such matters as they desire to have considered at the session, and that the persons so chosen may represent the freemen of their several towns at all sessions of the General Court, in all matters, except in the election of magistrates and all other officers, which shall be by the votes of the freemen. Thus the General Court resumed the powers it had previously voted to delegate to the Court

of Assistants, and took an advanced step towards a representative government, not specially authorised by the charter. The order previously passed, to limit the freemen to members of churches, was not repealed, and remained substantially without change during the continuance of the charter government. It was also ordered that thereafter taxes should be laid on property instead of on polls, as had been the custom.

At this session provision was made for summoning jurors, and it was ordered, "that no trial shall pass upon any, for life or banishment, but by a jury so summoned, or by the General Court." Also, at this session, the Court of Assistants was fined ten pounds for employing Indians "to shoot with pieces," contrary to an order of the court. But the fine was remitted before the close of the session. Also a committee was appointed to take an account of Mr. Winthrop for the public moneys he had received. One hundred and six freemen were admitted at this session, making the whole number admitted three hundred and sixty-six.*

Although the complaints made by Morton and others had been disposed of favourably to the colonists the year before, in the meantime a great change had taken place in the disposition of the Privy Council toward the colony.

Abbott, Archbishop of Canterbury, died in August, 1633, and was immediately succeeded by Laud, who was also a privy councillor. No public man in England was more obnoxious to the reformers. He was believed to

* Mass. Records, 117-120.

be at heart a papist, and had already shown a disposition to persecute the nonconformists without mercy. He "intended that the discipline of the Church should be felt as well as spoken of." His power was at once felt in the Privy Council. His attention had undoubtedly been drawn to the large emigration in 1633, and to the fact that among those who went over were several who had eluded the efforts of the Court of High Commission for their arrest. Mr. Humphrey, who arrived in June, 1634, brought the intelligence that, in February preceding, ten large ships with passengers were about to sail from England, when an order in council was issued, setting forth that "the Board is given to understand of the frequent transportation of great numbers of His Majesty's subjects out of this kingdom to the plantation of *New England*, amongst whom divers persons known to be ill-affected, discontented not only with civil but ecclesiastical government here, are observed to resort thither, whereby such confusion and distraction is already grown there, especially in point of religion, as beside the ruin of the said plantation, cannot but highly tend to the scandal both of Church and State here," and it was commanded that "divers ships now in the river of Thames, ready to set sail thither, freighted with passengers and provisions," should be detained, and that Mr. Cradock should produce before the Board, the charter of the Massachusetts Company.* "But upon the petition of the shipmasters (alleging how [beneficial] this plantation was to England) in regard to

* Hubbard, 153, 154.

the Newfoundland fishing, which they took in their way homeward, the ships were at that time released." *

A letter from Cradock was received, requesting that the charter be sent to him. Upon the receipt of the letter the governor and assistants, after a long consultation, "returned answer to Mr. Cradock, excusing that it could not be done but by a General Court, which was to be holden in September next." The governor and Mr. Winthrop also wrote letters to England, and sent them by Mr. Winslow "to mediate their peace." These acts of the Privy Council caused great uneasiness ; and, July 29, the governor and assistants, with some of the ministers and others, met at Castle Island, and agreed to erect two platforms and a small fortification there, and to contribute five pounds each for the expense of it, until a tax could be laid at the next General Court.†

But the colonists were soon to be subjected to a far more severe trial. Early in August, Jeffries, one of the old planters, received a letter from Morton, of date May 1, which he delivered to Winthrop, in which he gave information that, upon renewal of complaints, the Privy Council had declared the Massachusetts patent to be void ; and that the king had "reassumed the whole business into his own hands, and given order for a general governor for the whole territory to be sent over ;" that the commission had passed the Privy Seal,‡ and that he had seen it. This information caused the greatest alarm. A session of the General Court was called and held at

* Winthrop, I., 135.

† Ibid, 137.

‡ Hubbard, 428.

Cambridge, September 3, and continued in session a week, when it was adjourned to September 28.

Seldom, if ever, have the representatives of a people been called upon to meet questions fraught with more momentous consequences to their constituents than were those presented to the assistants and deputies at this session. If a general governor with unrestricted powers should be admitted, the ruin of the colony would be inevitable, and the high purposes for which the colonists had done and suffered so much would be defeated. It was a crisis requiring the exercise of the greatest fortitude and the most consummate wisdom and prudence. But the men at the head of affairs were equal to the emergency. It was a question of life and of death which confronted them.*

It was evident that there was entire unanimity in the results of their deliberations; that they determined to do and say nothing that would tend to exasperate the king, but that, if driven to the necessity, they would venture all in the defence of their rights and liberties. In the records of the session no reference is made to the commission, not a word which when known to the king could be construed into a menace or defiance of his authority. In the significant words of Winthrop, the members discovered "our minds each to other,"† and proceeded to the important work of the session.

It was first "ordered there should be a platform

* For this and following pages see Mass. Records, I., 123-143.

† Winthrop, I., 144.

made on the northeast side of Castle Island, and an house built on the top of the hill to defend the said platform."

"It was further ordered, that warrants shall be sent to the constable of every plantation, to send in money or workmen to make that which they have already done, three days apiece towards the fort at Boston, both of newcomers and others, for every hand able to work, (except magistrates and ministers,) that are behind, to be delivered to Captain Underhill, before the next Court of Assistants."

It was also ordered, "And for all extraordinary public work, that the overseer of the work and an assistant shall have power to send their warrant to the constable of any plantation to send so many of any condition, except magistrates and officers of churches and Commonwealth, as the warrant shall direct, which the constable and two or more that he shall choose, shall forthwith send."

It was "further ordered that there shall be a fortification made at the point near Robert Moulton's at Charlestown, and another either at the deputy governor's or at Fox's point, whichever the committees for that business shall judge most convenient for fortification, and how many pieces shall be in each place is referred to the committees and overseers of the works; this is to be done by the public, provided, that if Salem shall so fortify themselves as to satisfy the Court within this twelve months, that then they shall have such moneys returned them as they have contributed to the said forts of Castle Island, Charlestown, and Dorchester."

A committee was appointed to determine upon the places for these forts, and to lay them out, with authority to order any addition to the fort at Boston.

It was also ordered that the captains train their bands once every month, except in July and August, and "that the captains shall have liberty to train all such unskilful men as are at their own hands, so often as they please, provided they exceed not three days in a week."

It was further ordered "that the present governor, John Winthrop, Senior, John Haynes, John Humphrey, and John Endicott, Esq., shall have power to consult, direct, and give command for the managing and ordering of any war that may befall us for the space of a year next ensuing, and till further order be taken herein." Overseers of the powder and shot and all other ammunition in the several plantations were appointed.

It was also ordered "that all the muskets, bandeleroes, and rests lately come over this year, shall be equally divided amongst the several plantations; and the towns to have at all times so many in a readiness as a town stock."

Also, authority was given to impress men and carts for ordinary wages to help make carriages and wheels for the ordnance; also, that an oath be administered to the captains and overseers of arms. A cannoneer was appointed for the fort at Boston. It was further ordered that every trained soldier, as well pikemen as others, should be provided with muskets, bandeleroes, rests, powder, and shot, and that no trained soldier should make a shot upon train-

ing day, except with bullets, at a mark, by direction of the captains. Orders were also passed for furnishing Salem, Ipswich, and Saugus with ordnance. A tax of £600 was also laid.

At a session of the General Court, held at Cambridge in March following, an order was passed forbidding, under a very heavy penalty, any person from going on board any ship in any harbour, without the consent of an assistant, until it has been in the harbour twenty-four hours, and then only upon it being known that it was a friendly ship.

It was also ordered "that there shall be, forthwith, a beacon set on the sentry hill at Boston, to give notice to the country of any danger, and that there shall be a ward of one person kept there from the first of April to the last of September, and that upon the discovery of any danger, the beacon shall be fired, an alarm given, as also messengers presently sent by that town, where the danger is discovered, to all other towns within this jurisdiction."

It was also ordered that hereafter farthings shall not pass for current pay, and that musket bullets of a full bore shall pass current for a farthing each.

It was further ordered that the governor, deputy governor, John Winthrop, John Humphrey, John Haynes, John Endicott, William Coddington, William Pynchon, Increase Nowell, Richard Bellingham, Esq., and Simon Bradstreet, who are deputed to dispose of all military matters, "shall have full power to ordain or remove all military officers, and to make and tender to them an oath suitable to their places, to dispose of all companies, to

make orders for them, and to make and tender to them a suitable oath, and to see that strict discipline and trainings be observed, and to command them forth upon any occasion they think meet to make either offensive or defensive war, as also to do whatsoever may be further behooful for the good of this plantation in case of any war that may befall us ; and also that the aforesaid commissioners, or the major part of them, shall have power to imprison or confine any that they shall judge to be enemies to the Commonwealth, and such as will not come under command or restraint, as they shall be required ; it shall be lawful for the said commissioners to put such persons to death. This order to continue till the end of the next General Court."

This order, in substance, was renewed at the sessions of the General Court until the session in October, 1636, when the commission was transferred to the standing council, until further order. It was also ordered that all males, of or above the age of sixteen, take the resident's and qualified freemen's oath.

At the request of the governor and assistants, all the ministers of the colony, except Mr. Ward of Ipswich, who had just come over, met at Boston, January 19, and the question was propounded to them : "What we ought to do if a general governor should be sent out of England."

"They all agreed that if a general governor were sent, we ought not to accept him, but to defend our lawful possessions (if we were able); otherwise to avoid or protract."*

* Winthrop, I., 154.

It is very evident from these proceedings that the colonists were determined, as a last resort, to defend their lawful possessions by force. They hoped to avert this through diplomacy. Perhaps it was in their minds that the show of a power of resistance might tend to the discouragement of the king, who well knew that the sympathies of a very large portion of the English people were with the colonists ; and that an attempt, on his part, to deprive them of their chartered rights and liberties by force, might endanger the peace of England. But whether this was so or not, it is plain that the colonists were determined not to yield without a struggle ; that the whole power of the colony must be broken, before a ship with a general governor could enter either of its harbours.*

After the passage of these orders for defence, the assistants and deputies proceeded to the ordinary work of the sessions. At the September session in 1634, Winthrop, in reply to the order of the General Court for an account of public moneys under his administration, submitted a statement showing that he had expended large sums from his private property for the support of the colony, for which he had not been reimbursed ; and,

* " April 26, 1635. An alarm was raised in all our towns, and the governor and assistants met at Boston, and sent forth a shallop to Cape Ann, to discover what ships were there. For the fishermen had brought in word to Marblehead, that two ships had been hovering upon the coast all the day ; one of about four hundred tons and the other three hundred and fifty, and were gone into Cape Ann. But it proved to be only one ship of eighty tons, bound for Richmond's Isle, and the other a small pinnace of ten tons."—Winthrop, I., 157.

regarding the order as reflecting upon his integrity, concluded his statement as follows :

"In all these things, I refer myself to the wisdom and justice of the court, with this protestation, that it repenteth me not of my cost or labour bestowed in the service of this Commonwealth, but do heartily bless the Lord our God, that He hath pleased to honour me so far as to call for anything He hath bestowed upon me for the service of His church and people here, the prosperity whereof and His gracious acceptance shall be an abundant recompence to me. I conclude with this one request (which in justice may not be denied me), that as it stands upon record, that upon the discharge of my office, I was called to account, so this, my declaration, may be recorded also, lest hereafter when I shall be forgotten some blemish may lie upon my posterity, when there shall be nothing to clear it."

It was ordered by the General Court that the statement be recorded.*

A large part of the time of the session was occupied in considering a request from Mr. Hooker and others at Newtown, for permission to remove to Connecticut. They claimed that they had not sufficient accommodations for their cattle, that the land in Connecticut was very fertile, and that, if not occupied, there was danger that the Dutch, or some from England, independent of the colony, would take possession of it.

It was objected, that the removal would be prejudicial

* Mass. Records, I., 130-132.

to the colony, which was weak, and in danger of being attacked; that if permission was given, not only many would remove, but those who went would attract others who should come over; and an offer was made that they might remove to Merrimac, or some other unoccupied place in the colony. After discussion, a vote was taken, and fifteen deputies voted to grant the request, and ten voted against it. Of the governor and assistants, the governor voted in favour of the request, as did two assistants, and the deputy governor and the rest of the assistants voted against it. Upon this the governor and assistants claimed that permission could not be given without the concurrent consent of the governor and assistants, and of the deputies; that the governor and assistants had a "negative voice" in the matter. This was not consented to by the deputies, and as no agreement could be arrived at, both parties agreed "to keep a day of humiliation to seek the Lord, which accordingly was done in all the congregations the 18th day of this month," and the court adjourned to the 24th day. Upon reassembling, Mr. Cotton, being desired by all the court, preached a sermon suitable to the occasion. After the sermon, the "affairs of the court went on cheerfully," and although all were not satisfied to allow the claim of the governor and assistants, yet no one made any motion on the subject, and the congregation at Newtown accepted offers that had been made them by Boston and Watertown, and so the matter was settled for the time.*

* Winthrop, I., 140, 142.

The founders of the colony had learned from experience the difficulty of maintaining the independency of the churches without schism, and at the session of the General Court, in March, 1635, the following vote was passed :

"This court doth entreat of the elders and brethren of every church within this jurisdiction that they will consult and advise of one uniform order of discipline in the churches, agreeable to the Scriptures, and then to consider how far the magistrates are bound to interpose for the preservation of that uniformity and peace of the churches."*

Also authority was given for any two assistants to censure, either by fine or imprisonment, any person who usually absents himself from church meetings upon the Lord's day, but no fine exceeding five shillings to be imposed for a single offence.†

At the General Court in May, 1635, John Haynes was chosen governor, and Richard Bellingham deputy governor. All the assistants were re-elected except Endicott and Ludlow, and Hough and Dummer were elected for the first time. At this session, the governor and deputy governor were elected by papers, on which their names were written, and the assistants were chosen as follows: The governor nominated the assistants of the previous year separately, and upon each nomination the freemen left the room and re-entered by one door, when each one deposited a paper in a hat. Those in favour of

* Mass. Records, I., 142, 143.

† Ibid, 140.

the candidate nominated, made a scroll or figures on their papers, and those opposed, deposited blank papers.*

At this session, the proposed removal to Connecticut was again considered, and liberty was granted the inhabitants of Watertown, Roxbury, and Dorchester, to remove to any place they should desire to, "provided they continued still under this government," and, in March of the next year, 1636, commissioners were appointed by the General Court for the government of the people who should remove to Connecticut.† Although out of the limits of the Massachusetts patent, the General Court claimed jurisdiction over the territory until it should have a settled government, consented to by the persons in England who had obtained a charter for Connecticut, the inhabitants there, and the government of Massachusetts Bay.

At the May session, 1635, Wessacumcon, under the name of Newbury, and Marblehead, were allowed to be plantations.‡

Meanwhile, the colonists were called upon to deal with serious troubles and dissensions in their midst. In the autumn of 1633, Roger Williams returned to Salem as an assistant to Skelton, and upon his death, in August of the next year, was chosen teacher in his place, without the consent or approval of the magistrates. The first known of Mr. Williams, after his return, was in connection with Mr. Skelton, in opposition to meetings of the ministers of Boston and Lynn, which had been held at their several houses once a fortnight, for conference and discussion;

* Winthrop, I., 159. † Mass. Records, I., 146-170. ‡ Ibid, 146, 147.

upon the ground that "it might grow in time to a presbtery, or superintendency, to the prejudice of the churches' liberties."* Soon after he was summoned to produce before the Court of Assistants a paper he had written when at Plymouth, which had caused dissatisfaction with some of the principal men there, in which he asserted that the charter gave no title to the land; that the colonists were guilty of the sin of unjust usurpation in taking possession of the land without a title from the Indians; that King James "told a solemn public lie because in his patent he blessed God that he was the first Christian Prince that had discovered this land;" and that he was guilty of blasphemy in calling Europe Christendom, or the Christian world. He also applied certain passages of Scripture to King Charles.† The mischievous effect of this language, if published, was evident. It would tend to discredit the title under which the people held their lands, and to increase the ill feeling of the king toward the colonists. It was deemed necessary to take formal action regarding the paper, and Williams was convented at the next court.‡ But to a letter of the governor stating the action that had been taken, Williams replied that he had only intended the paper for the satisfaction of the authorities at Plymouth, without any intention of publishing it, and he offered it or any part of it to be burned. He afterwards appeared before the Court of Assistants and made satisfaction, and no further action was taken.§

* Winthrop, I., 117.

† Ibid, 122.

‡ Ibid, 122.

§ Ibid, 123.

In October, 1634, Endicott caused the red cross to be cut from the flag of the train band at Salem, at the instigation, it is said, of Williams. This act caused great anxiety to the magistrates, as it was feared the defacing of the national ensign would be regarded by the king as an act of rebellion. All regarded the cross as given to the king by the Pope, "as an ensign of victory, and so a superstitious thing, and a relic of Anti-Christ." * Yet they regarded the act as in the highest degree imprudent under the circumstances in which they were placed; and, at a meeting of the Court of Assistants the next month, the matter was considered, and the advice of some of the ministers taken, when, according to Winthrop, it was "agreed to write to Mr. Downing in England, of the truth of the matter under all our hands, that, if occasion were, he might show it in our excuse; for therein we expressed our dislike of the thing, and our purpose to punish the offenders; yet with as much wariness as we might, being doubtful of the lawful use of the cross in an ensign, though we were clear that fact, as concerning the matter, was very unlawful."†

At the next session of the General Court, held in May, 1635, the subject was again considered, and a committee, consisting of four magistrates and one person from each town, was chosen to consider the offence, who, on the same day, reported that they "apprehended he (Mr. Endicott) had offended therein many ways, in rashness, uncharitableness, indiscretion, and exceeding the limits of his

* Winthrop, I., 146, 147.

† Ibid, 150.

calling; whereupon the court hath censured him to be sadly admonished for his offence, which accordingly he was, and also disabled for bearing any office in the Commonwealth for the space of a year next ensuing." * According to Winthrop, "they declining any heavier sentence because they were persuaded he did it out of tenderness of conscience, and not of any evil intent." †

April 30, 1635, Williams was sent for, and charged by the Court of Assistants with certain errors in his preaching. Winthrop says, "He was heard before all the ministers and very clearly confuted. Mr. Endicott was at first of the same opinion, but he gave place to the truth." ‡ But Mr. Williams would not yield, and he was summoned, and appeared before the General Court at its session in September following. The charges made against him, as stated by Winthrop, were for divers dangerous opinions, viz.:

1. "That the magistrate ought not to punish the breach of the first table, otherwise than in such cases as did disturb the civil peace;"

2. "That he ought not to tender an oath to an unregenerate man;"

3. "That a man ought not to pray with such, though wife, child, etc.;"

4. "That a man ought not to give thanks after the sacrament, nor after meat, etc.;"

"And that the other churches were about to write to the church of Salem to admonish him of these errors,

* Mass. Records, I., 145, 146. † Winthrop, I., 158. ‡ Ibid, 158.

notwithstanding the church had since called him to the office of a teacher."

"Much debate was about these things."

"The said opinions were adjudged by all, magistrates and ministers (who were desired to be present), to be erroneous and very dangerous, and the calling of him to office at that time was judged a great contempt of authority. So, in fine, time was given to him and the church of Salem to consider of these things till the next General Court, and then either to give satisfaction to the Court, or else to expect the sentence; it being professedly declared by the ministers (at the request of the Court to give their advice) that he who should obstinately maintain such opinions (whereby a church might run into heresy, apostacy or tyranny, and yet the civil magistrate could not intermeddle) were to be removed, and that the other churches ought to request the magistrates so to do." *

Winthrop states, "Salem men had preferred a petition at the last General Court, for some land in Marblehead Neck, which they did challenge as belonging to their town; but because they had chosen Mr. Williams, their teacher, while he stood under question of authority, and so offered contempt to the magistrates, etc., their petition was refused till, etc. Upon this the church of Salem write to other churches to admonish the magistrates of this as a heinous sin, and likewise the deputies; for which, at the next General Court, their deputies were not received until they should give satisfaction about the letter." †

* Winthrop, I., 162, 163. † Ibid, 164. Mass. Records, I., 156.

This letter was written and sent through the influence of Williams, but, by wise and prudent efforts of the elders of the churches with individuals of the church of Salem, a majority of its members were, in a short time, persuaded of the mischievous tendency of the course pursued by their pastor, and refused to give further countenance to it. This increased the anger of Williams ; and upon Sunday, August 29, he sent a letter to be read to his church. As stated by Winthrop, " Mr. Williams, pastor of Salem, being sick and not able to speak, wrote to his church a protestation, that he could not communicate with the churches in the Bay, neither would he communicate with them, except they would refuse communion with the rest ; but the whole church was grieved herewith." Williams never afterwards officiated in the church, but for several weeks held meetings of his adherents at his own house, at which he declared he would have no communion with any of the churches, not even with the church of Salem ; and even refused to pray with his wife, because she continued to attend the meetings of the church.

At the next session of the General Court, in September, 1635, the subject of the letter from the church of Salem was again considered, and " Mr. Endicott made a protestation in justification of the letter formerly sent from Salem to the other churches against the magistrates and deputies, for which he was committed ; but the same day he came and acknowledged his fault, and was discharged." * But Mr. Williams persisted in maintaining the charges made in the

* Winthrop, I., 166.

letter, whereupon the following order was passed: "Whereas Mr. Roger Williams, one of the elders of the church of Salem, hath broached and divulged divers new and dangerous opinions against the authority of magistrates; as also writ letters of defamation, both of the magistrates and churches here, and that before any conviction, and yet maintaineth the same without retraction; it is therefore ordered, that the said Mr. Williams shall depart out of this jurisdiction within six weeks now next ensuing, which, if he neglect to perform, it shall be lawful for the governor and two of the magistrates to send him to some place out of this jurisdiction, not to return any more without license from the court." Afterwards permission was given him to remain through the winter. It was also ordered that Mr. Samuel Sharp, the ruling elder of the church of Salem, be "enjoined to appear at the next particular court to answer for the letter that came from the church of Salem, as also to bring the names of those that will justify the same, or else to acknowledge his offence, under his own hand, for his own particular." *

The Court of Assistants met at Boston in January, 1636, to consider in regard to Mr. Williams, as he had disregarded the injunction laid upon him, "not to go about to draw others to his opinions" during the time he was permitted to remain; and that he had entertained people at his house and preached to them, "even of such points as he had been censured for, and it was agreed to send him into England by a ship then ready to depart." They

* Mass. Records, I., 160, 161.

were informed that he had drawn about twenty persons to his opinions, and that they intended to "erect a plantation about the Narragansett Bay." Whereupon a warrant was sent for him to come to Boston to be put on board the ship. He returned answer that he could not come without hazard of his life ; when a pinnace was sent to Salem, in which to take him to the ship then at Nantasket ; but, upon its arrival, Williams could not be found ; and it was ascertained he had left Salem three days before the arrival of the pinnace.* With several of his adherents he spent the remainder of the winter with the Indians at Sowans, now Warren, in Rhode Island, and in the spring removed to what is now Providence, it being claimed that Sowans was within the limits of the Plymouth patent.

* Winthrop, I., 175, 176.

CHAPTER V.

SIR HARRY VANE, GOVERNOR.

ON the sixth day of October, 1635, Henry Vane, afterwards Sir Henry Vane, arrived at Boston in the ship *Abigail*. His father, Sir Henry Vane, held a seat in Parliament, was a member of the Privy Council, and afterwards principal Secretary of State; he was in high favour at court, and had great influence with Charles, whose treasurer he had been before the death of his father. Young Vane as a boy had manifested a very independent spirit. At the age of nineteen he left Oxford University and accompanied his father, who was appointed English ambassador to the Austrian Court; and he spent a year on the continent, a part of the time, it is said, at Geneva. Upon his return to England he openly espoused the cause of the reformers, and finally determined to cast his lot with the colonists of New England. Although strenuously opposed by his father, his consent was obtained; it is said through the advice and by the direction of the king, who gave young Vane a license to remain here three years.*

He had formed an acquaintance with John Winthrop, the younger, then in England, and intended to go with him

* Winthrop, I., 169, 170.

to Connecticut, for which colony Winthrop was commissioned as governor by Lord Say and Sele, and others interested in the settlement of that colony.

In the same ship came over Mr. Hugh Peters and Mr. Thomas Shepard.* Mr. Peters had taken a great inter-

* Mr. Shepard was a nonconformist minister. As Mr. Hooker had removed with his church to Connecticut, Mr. Shepard, with the approbation of the magistrates, established a new church at Newtown, over which he was settled as pastor, February 1, 1636.

The proceedings on this occasion are given very fully by Winthrop; and are of great interest as showing the progress that had been made in the perfecting of the discipline of the churches. I give the statement in full. "Mr. Shepherd a godly minister, come lately out of England, and divers other good Christians intending to raise a church body, came and acquainted the magistrates therewith, who gave their approbation. They also sent to all the neighbouring churches for their elders to give their assistance, at a certain day at Newtown, when they should constitute their body. Accordingly, at this day, there met a great assembly, where the proceeding was as followeth :

"Mr. Shepherd and two others (who were after to be chosen to office) sat together in the elder's seat. Then the elder of them began with prayer. After this Mr. Shepherd prayed with deep confession of sin, etc.; and exorcised out of Eph. V. that he might make it to himself a holy, etc.; and also opened the cause of their meeting, etc. Then the elder desired to know of the churches assembled, what number were needful to make a church, and how they ought to proceed in this action. Whereupon some of the ancient ministers, conferring shortly together, gave answer: That the Scripture did not set down any certain rule for the number. Three (they thought) were too few, because by Matt. XVIII. an appeal was allowed from three; but that seven might be a fit number. And for their proceeding, they advised, that such as were to join should make confession of their faith, and declare what work of grace the Lord had wrought in them; which accordingly they did, Mr. Shepherd first, then four others, then the elder, and one who was to be deacon (who had also prayed), and

est in the formation of the Massachusetts Bay Colony, and had contributed to its funds. He had been engaged at Rotterdam as a nonconformist minister, but was compelled to leave, through the influence of the English ambassador. Both Vane and Peters, after a brief residence here, returned to England, and took an active part in the rebellion, which resulted in the execution of the king; and both, upon the restoration, met the same fate upon the scaffold.

Upon his arrival at Boston, Vane, being then only twenty-three years of age, was received by the people with much honour as the son of a privy councillor, and he was so much flattered by the attentions paid him that he soon decided to remain at Massachusetts Bay. He was admitted a member of the church of Boston, November 1.*

On November 30, before he had been two months in another member. Then the covenant was read, and they all gave a solemn assent to it. Then the elder desired of the churches, that, if they did approve them to be a church, they would give them the right hand of fellowship. Whereupon Mr. Cotton, (upon short speech with some others near him,) in the name of their churches, gave his hand to the elder, with a short speech of their assent, and desired the peace of the Lord Jesus to be with them. Then Mr. Shepherd made an exhortation to the rest of his body, about the nature of their covenant, and to stand firm to it, and commended them to the Lord in a most heavenly prayer. Then the elder told the assembly that they intended to choose Mr. Shepherd for their pastor, (by the name of the brother who had exorcised,) and desired the churches, that, if they had anything to except against him, they would impart it to them before the day of ordination. Then he gave the churches thanks for their assistance, and so left them to the Lord."—Winthrop, I., 180, 181.

* Winthrop, I., 170.

the colony, at a general meeting in Boston, it was "agreed that none of the members of this congregation, or inhabitants among us, shall sue one another at the law, before Mr. H. Vane and the two elders, Mr. Thomas Oliver and Thomas Leverett, have had the hearing and deciding of the cause if they can." * Within a little more than a month after, Vane with Hugh Peters caused a meeting to be called at Boston, of the governor, Haynes, the deputy governor, Bellingham, Mr. Cotton, Mr. Hooker, Mr. Wilson, Mr. Winthrop, and Mr. Dudley. Mr. Vane stated the purpose of the meeting, which was to heal the differences among the people regarding the conduct of Mr. Winthrop and Mr. Dudley; the former carrying matters with more lenity, and the latter with more severity. Winthrop and Dudley both expressed surprise at the charges made, and neither of them had any complaint to make against the other. Whereupon Mr. Haynes spoke of one or two passages wherein he conceived that he, Winthrop, "dealt too remissly in point of justice." Winthrop replied "that it was his judgment, that in the infancy of plantations, justice should be administered with more lenity than in a settled state, because people were then more apt to transgress, partly of ignorance of new laws and orders, partly through oppression of business and other straits, but if it might be made clear to him that it was an error, he would be ready to take up a stricter course." The question was submitted to the ministers present with request that they lay down a rule

* Boston Records.

in the case, and to report the next morning. They gave their opinions the next morning to the effect "that strict discipline both in criminal offences and in martial affairs, was more needful in plantations than in a settled state, as tending to the honour and safety of the Gospel." Winthrop assented to the report, and promised to endeavour to take a more strict course thereafter. "Whereupon there was a renewal of love amongst them," and certain general rules of administration and conduct were drawn up. One of the rules was, that "the magistrates shall appear more solemnly in public, with attendance, apparel, and open notice of their entrance into the court." *

At the next annual meeting of the General Court, in May, 1636, Vane was chosen governor, apparently without opposition. At that time there were fifteen large ships in the harbour, "and, because he was son and heir to a privy counsellor in England, the ships congratulated his election with a volley of great shot." † The new governor, in accordance with the rules that had been adopted, was attended, whenever he went to the General Court or to church, by four sergeants, with halberds, steel caps on their heads, bandoliers, and small arms. At the same General Court, Winthrop and Dudley were chosen assistants for life, under an order passed by the General Court in the preceding March, that "a certain number of the magistrates" be chosen for life, as a standing council, and that the governor, for the time being, be president of the council.‡ This step was taken with a view to encourage

* Winthrop, I., 178, 179.

† Ibid, 187.

‡ Ibid, 184.

certain of the gentry who were inclined to come over, by establishing a permanent council as an aristocratic branch of the government. At the next session of the General Court, Endicott was chosen a member of it. This council was without any warrant in the charter, and three years after it was practically abolished.

A few months before the annual meeting, the military commissioners, the subject having been committed to them by the General Court, ordered the cross to be left out of all the colours of the train bands, but the king's arms to remain in the colours of the fort at Castle Island.* A few days before the meeting, the lieutenant of the fort went on board the ship *St. Patrick*, one Palmer, master, which belonged to Wentworth, afterwards the Earl of Strafford, as she approached Castle Island, and compelled her to strike her flag. The master was indignant, and complained to the magistrates, who, after a hearing, declared to the master that the lieutenant had acted without authority, "and because he had made them strike to the fort (which had then no colours aboard), they tendered the master such satisfaction as he desired, which was only this, that the lieutenant aboard their ship should acknowledge his error, that so all the ship's company might receive satisfaction, lest the lord deputy should have been informed that we had offered that discourtesy to his ship, which we had never offered to any before." †

But the trouble was not all over. Probably much ill

* Winthrop, I., 180.

† Ibid, 186.

feeling at what had happened existed among the officers and men of the fifteen large ships, which resulted in disorderly conduct of the sailors when on shore. It was necessary that some stringent regulations be adopted, and that the privileges of masters and seamen, in entering and whilst remaining in the harbour, be sharply defined. The next week after he was chosen governor, Vane invited the masters of all the ships to dine with him, and, after the dinner proposed to them :

“ 1. That all ships which should come after this year, should come to an anchor before they came at the fort, except they did send their boat before, and did satisfy the commander that they were friends.

“ 2. That before they offered any goods to sale, they would deliver an invoice, etc., and give the governor, etc., twenty-four hours' liberty to refuse, etc.

“ 3. That their men might not stay on shore (except upon necessary business) after sunset.”

These propositions were willingly assented to by the masters.* Soon after, the mate of the ship *Hector*, then in the harbour, to some who had come on board, denounced the people because they had not the king's colours at the fort, as traitors and rebels. Upon this being reported, the governor sent for the master of the ship, who promised to deliver up the mate, and the marshal and four sergeants were sent on board to take him. The master was not on board, and the men refused to deliver him up, but the master, who was on shore, went himself and

* Winthrop, I., 186-7.

brought the mate to the court, and, his offence having been proved, he was committed. "The next day the master, to pacify his men, who were in a great tumult," upon his promise to return the mate on the next day, was allowed to take him. He did return him at the time appointed, when the mate, in the presence of all the rest of the masters, acknowledged his offence, and signed a submission and was discharged. The governor then requested the masters that "they would deal freely," and if any offences, to state what they required. They answered that they should be examined upon their return to England as to what colours they saw here, and they desired that the king's colours might be displayed at the fort. It was answered that we had none. The masters offered to furnish them, to which the reply was made that "we were fully persuaded that the cross in the ensign was idolatrous, and therefore might not set it in our ensign; but because the fort was the king's, and maintained in his name, we thought that his own colours might be spread there. So the governor accepted the colours of Captain Palmer and promised they should be set up at Castle Island." The subject had been considered over night with Mr. Cotton and others. Governor Vane, Dudley, and Cotton favoured displaying the King's colours upon the grounds before stated. Others deferred to the judgment of Vane and Dudley, and some others were not persuaded, but would not oppose it on the ground that it was doubtful.*

* Winthrop, I., 187-9.

In July following some Indians from Block Island boarded the pinnace of John Oldham, who was at the island for trade, killed him, and carried off his goods.* After ineffectual attempts for the delivery up of the Indians who had committed the murder, and the return of the goods, a force of ninety men, under the command of Endicott, was sent to Block Island, with instructions to put to death the men, but to save the women and children; and afterwards to go to the Pequot Indians, and to demand of them to deliver up the men who, three years before, killed Captain Stone and eight others in a vessel at the mouth of the Connecticut, also to demand damages, and some children as hostages. The expedition arrived at Block Island the last of August; the Indians endeavoured to prevent the men from landing, but not succeeding, fled into the interior of the island, which was about ten miles in length and four miles in breadth. They landed, and attempted to follow the enemy, but the surface of the island was very uneven, and overgrown with scrub oaks so that they could only march through narrow paths in single file. They spent two days, without discovering any Indians, when they burned sixty wigwams and some corn that had been gathered. According to Underhill, who was a captain in the expedition, they "burnt the Indian houses, cut down their corn and destroyed some of their dogs instead of men."

From Block Island, they sailed to Saybrook Fort, at the mouth of the Connecticut. Lieutenant Gardiner in command of the fort was indignant at what had been done

* Winthrop, I., 190.

at Block Island, and, anticipating the effect of the proceedings upon the savages, said to Endicott, "You come hither to raise these wasps about my ears, then you will take wing and flee away." But he was prevailed upon to send some of his men with Endicott against the Pequots, and after being wind-bound several days the vessels sailed to Pequot Harbour. There Endicott was informed that the sachem, Canonicus, had gone to Long Island. Endicott then sent for the other sachem. There was much dallying, and finally the Indians, who had gathered in large numbers, were told they had dared the English to come and fight with them, and that they had come for that purpose; whereupon the Indians withdrew, and Endicott marched his men to their town, and burned all their wigwams. The corn was not gathered, so they could not destroy it. They then returned to their vessels; and the next day landed on the west side of the river, and burned some wigwams, and destroyed some canoes which they found there; after which they sailed to Narragansett, and on the 14th day of October, according to Winthrop, "they came all safe to Boston, which was a marvellous providence of God, that not a hair fell from the head of any of them, nor any sick or feeble person among them."* The governor of Plymouth sent a letter to Winthrop soon after the return of Endicott, in which he expressed his disapproval of what had been done, and complained that Massachusetts had occasioned an Indian war by provoking the Pequots.†

* Winthrop, I., 192-195. † Bradford, 253. Winthrop, I., 199.

CHAPTER VI.

ANNE HUTCHINSON.

MEANWHILE, a new heresy had taken root in the church of Boston, and was spreading through the colony, which threatened not only the integrity of the churches, but the peace of the Commonwealth. Mrs. Anne Hutchinson, with her husband, William Hutchinson, "a gentleman of good estate and good reputation" of Alford, near Boston, in Lincolnshire, England, arrived at Boston in the ship *Griffen*, September, 1634. She was a woman of superior abilities, and an enthusiastic student of the theological problems of the time. In England she had attended Mr. Cotton's church, and one great motive of her coming over was that she might enjoy his preaching. She soon acquired great influence over those of her own sex here by her kindness and attention to them, especially in times of sickness and trouble. It was the practice in Boston for the men to hold weekly meetings to discuss the sermons of the preceding Sunday, to which women were not invited. Some time after her arrival, she instituted weekly meetings of women at her house for the same purpose. She conducted the meetings, to which large numbers from Boston, and some from the neighbouring towns, were attracted. It was the custom of the ministers

to preach that justification, the indwelling of the Spirit of God in the individual, was evidenced by his outward conduct and observances, including his walk, his dress, and even the fashion of his hair. Mrs. Hutchinson maintained that such conduct and observances did not furnish satisfactory evidence of Christian piety, as they could be practised by hypocrites; and that the best evidence of sincere piety was from the inner light and assurance, and that the individual alone could judge of the operation of the Spirit of God in his own heart. These views she presented with much ability and zeal, and to the great acceptance of her hearers. How long these meetings had been held before they attracted the attention of the authorities is not known. The first mention Winthrop makes of Mrs. Hutchinson is of date October 21, 1636. He writes, "One Mrs. Hutchinson, a member of the church of Boston, a woman of ready wit and bold spirit, brought over with her two dangerous errors: 1. That the person of the Holy Ghost dwells in a justified person. 2. That no sanctification can help to evidence to us our justification. From these two grew many branches; as, our union with the Holy Ghost, so as a Christian remains dead to every spiritual action, and hath no gifts nor graces other than such as are in hypocrites, nor any other sanctification but the Holy Ghost himself," and, "There joined with her in these opinions a brother of hers, one Mr. Wheelwright, a silenced minister sometimes in England."* Four days after, October 25, there was a session of the

* Winthrop, I., 200.

General Court in Boston. Mr. Wheelwright had preached a sermon in which it was claimed that he sustained the views of Mrs. Hutchinson, and it was rumoured that Mr. Cotton also endorsed them. This caused great consternation among the country ministers, who came in a body to Boston, and held a private conference with the General Court, "to the end they might know the certainty of these things, that if need were they might write to the church of Boston about them."

"At this conference Mr. Cotton was present and gave satisfaction to them, so as he agreed with them all in the point of sanctification, and so did Mr. Wheelwright, so as they all did hold that sanctification did help to evidence justification. The same he had delivered plainly in public, divers times, but for the indwelling of the person of the Holy Ghost, he held that still, as some others of the ministers did, but not union with the person of the Holy Ghost (as Mrs. Hutchinson and others did), so as to amount to a personal union." *

Some of the members of the church of Boston had propounded that Mr. Wheelwright be called as a teacher of that church, and on October 30 it came up for a decision. One of the church, undoubtedly Mr. Winthrop, said he could not consent. "His reason was, because the church, being well furnished already with able ministers, whose spirits they knew," he did not wish the church to run the least hazard "by calling in one whose spirit they knew not, and one who seemed to dissent in judgment;" and

* Winthrop, I., 201.

instanced two points in a late discourse by him, "1. That a believer was more than a creature. 2. That the person of the Holy Ghost and a believer were united." After some discussion the church gave way that he (Mr. Wheelwright) might be called to a new church to be gathered at Mount Wollaston, within the limits of what is now the city of Quincy. Members of the church were offended at what was said against Mr. Wheelwright, and the next day Mr. Winthrop again addressed the congregation, making answer to the alleged offences he had committed. Among other things, he said he was accused of charging Mr. Wheelwright with holding opinions which he did not hold. "For this he answered that he had spoken since with the said brother and for the two points,—that a believer should be more than a creature, and that there should be a personal union between the Holy Ghost and a believer. He had denied to hold either of them, but by necessary consequence he doth hold them both; for he holds (said he) that there is a real union with the person of the Holy Ghost, and then of necessity it must be personal, and so a believer must be more than a creature, viz., God-man, even Christ Jesus." * The ministers held that the Holy Ghost was a person, consequently, any personal union of the believer with the Holy Ghost made him a superhuman being.

The excitement upon the subject increased. The doctrines of Mrs. Hutchinson were, in whole or in part, sustained not only by Mr. Wheelwright and Mr. Cotton,

* Winthrop, I., 202-3.

of the ministers, but by Governor Vane, and Dummer, and Coddington, of the assistants, and by "All the congregation of Boston, except four or five." *

In his journal, in November, Winthrop said, "The governor, Mr. Vane, a wise and godly gentleman, held, with Mr. Cotton and many others, the indwelling of the person of the Holy Ghost in a believer, and went so far beyond the rest as to maintain a personal union with the Holy Ghost, but the deputy, with the pastor and divers others, denied both," that for the peace of the Church the controversy was carried on in writing, that they all agreed that the Holy Ghost is God, and that he dwells in the believer, "but whether by his gifts and powers only, or by any other manner of presence," and "it was earnestly desired that the word person might be forborne, being a term of human invention, and tending to doubtful disputation in this case." †

In December following, Governor Vane called a meeting of the assistants and deputies, and informed them that urgent private business required that he should visit England, but upon the earnest protestation of one of the assistants against his leaving "in a time of such danger as did hang over us from the Indians and French," the governor burst into tears, and replied that, serious as was the danger that threatened his estate, he would not have proposed to leave "if something else had not pressed him more, viz., the inevitable danger he saw of God's judgments to come upon us for these differences and dissen-

* Winthrop, I., 212.

† Ibid, 206.

sions which he saw amongst us, and the scandalous imputations brought upon himself, as if he should be the cause of all ; and therefore he thought it best for him to give place for a time, etc.," but the court declined to consent to his departure on this ground, whereupon he declared that the reasons concerning his estate were sufficient, and that what he had said upon the other ground was "out of his passion, and not out of judgment." Upon this, the court, without discussion, consented to his departure, and voted to call a meeting of the General Court to elect a governor in his place.

When the General Court convened, "divers of the congregation of Boston" sent a committee to the court, to declare that they did not deem it necessary for the governor to leave for the reasons he had given ; "whereupon the governor expressed himself to be an obedient child to the Church, and, therefore, notwithstanding the license of the court, yet without the leave of the Church, he durst not go away," and upon this declaration, it was agreed not to proceed to an election, but to adjourn to the annual election in May.*

But this was not all of the business of the court. The excitement in regard to the new doctrines, as they were called, was such that the elders of the churches were called to advise with the court "about discovering and pacifying the differences among the churches in point of opinion." The governor having given the opportunity, Mr. Dudley desired that men would be "free and open."

* Winthrop, I., 207-8.

Another assistant expressed a desire that all would freely express their differences of opinion. The governor said "that he would be content to do the like, but that he understood the ministers were about it in a church way." The ministers had met before the court convened, and prepared a series of points to be propounded to Mr. Cotton, covering what they suspected to be his disagreement with them in matters of doctrine. This meeting was spoken of the day before in the court, at which the governor was much offended, as having been held without his knowledge. At this last meeting Mr. Peters addressed him, saying "how it had sadded the ministers' spirits that he should be jealous of their meetings or seem to restrain their liberty." The governor excused his speech as "sudden and upon a mistake." Mr. Peters then told him that before he came the churches were in peace; "the governor answered that the light of the Gospel brings a sword, and the children of the bondwoman would persecute those of the freewoman." Mr. Peters, in reply, besought him "humbly to consider his youth and short experience in the things of God, and to beware of peremptory conclusions, which he perceived him to be very apt unto," and, further, that pride and idleness were among the principal causes of new opinions and divisions. Mr. Wilson followed, and "made a very sad speech of the condition of our churches, and the inevitable danger of separation, if these differences and alienations among brethren were not speedily remedied; and laid the blame upon those new opinions risen up among us, which all the magistrates,

except the governor and two others, did confirm, and all the ministers but two." The speech of Mr. Wilson gave great offence to Mr. Cotton and other members of the church, who called upon him to admonish him. He replied, that he and all the other elders were exhorted to deliver their minds freely and faithfully, and that what he had said was of general application; and in reply to questions, he said that he did not mean the Boston church or its members more than those of other places. But this answer did not give satisfaction, and he was called to answer at a public meeting. At the meeting, "the governor pressed it violently against him, and all the congregation, except the deputy (Winthrop) and one or two more, and many of them with much bitterness and reproaches, but he answered them all with words of truth and soberness, and with marvellous wisdom." Mr. Cotton spoke, condemning the charges made by Mr. Wilson, "yet with much wisdom and moderation."

There was a strong disposition shown to proceed to immediate censure of Mr. Wilson, but Mr. Cotton opposed it upon the ground that they were not unanimous, but he gave Mr. Wilson "a grave exhortation." Yet Mr. Wilson preached the next day, and gave great satisfaction, and even the governor expressed his approval of what he said. This was followed by an amicable correspondence between Winthrop and Mr. Cotton, and a reply to Mr. Cotton's arguments by the two ruling elders of the church.*

* Winthrop, I., 207-11.

In a short time after, the tables were turned, and the rest of the ministers made an attack on Mr. Cotton for some doctrines he had preached, and for some opinions which some of his church-members had expressed, of whom he seemed to have too good an opinion, and with whom he had too much familiarity; and they drew up sixteen points which they presented to him with the request for a direct reply, which he accordingly made, some of his answers being satisfactory and others not. To those which were not satisfactory the ministers replied, and, on January 20, they kept a fast in all the churches, for, among other things, "the dissensions in our churches."*

"The differences in the said points of religion increased more and more, and the ministers of both sides (there being only Mr. Cotton of one party) did publicly declare their judgments in some of them, so as all men's mouths were full of them." A ship with many passengers was ready to sail for England early in February. A meeting was held with these passengers. Mr. Cotton addressed them, and desired that they should report that all the strife in the churches was about magnifying the grace of God, one party seeking to advance the grace of God within us, and the other to advance the grace of God towards us. He was followed by Mr. Wilson, who declared that all the elders and members of the churches laboured to advance the free grace of God in justification, so far as the word of God required it; "and spoke also

* Winthrop, I., 212, 213.

about the doctrine of sanctification, and the use and necessity, etc., of it, by occasion whereof no man could tell (except some few who knew the bottom of the matter) where any difference was." This offended Mr. Cotton's party. "Thus every occasion increased the contention, and caused great alienation of minds, and the members of Boston (frequenting the lectures of other ministers), did make much disturbance by public questions, and objections to their doctrines, which did any way disagree from their opinions, and it began to be as common here to distinguish between men, by being under a covenant of grace or a covenant of works, as in other countries between Protestants and Papists." *

The next session of the General Court was held in Boston, March 9, 1637, at which the subject of these new opinions and Mr. Wilson's sad speech were discussed, upon which the court was divided, but "the greater number far were sound," according to Winthrop, and it appears from the record that "the court did approve of Mr. Wilson's speech in their judgments." At this session of the General Court, the ministers were called to advise the court of its authority in matters concerning the churches. They all agreed that no member of the court ought to be publicly questioned for any remarks he had made in the court, except by the consent of the court, and that "in all such heresies or errors of any church-members as are manifest and dangerous to the State, the court may proceed without tarrying for the church; but

* Winthrop, I., 213.

if the opinions be doubtful they are first to refer them to the church, etc."*

Having obtained this decision from the ministers, the court proceeded to a trial of Mr. Wheelwright for a sermon he had preached at the last fast, which seemed to tend to sedition, etc. Upon this, a petition was presented, signed by nearly all the members of the church of Boston, asking that as freemen they might be present in cases of judicature, and whether they might not in cases of conscience deal before the church. This was taken "as a groundless and presumptuous act," and was dismissed with this answer, "that the court had never used to proceed judicially, but it was openly; but for matter of consultation and preparation in causes, they might and would be private." The sermon of Mr. Wheelwright being produced, it was claimed that in it he inveighed against all who walked in a covenant of works. Mr. Winthrop says he justified it, and admitted he did mean all who walked in such a way, "whereupon the elders of the rest of the churches were called, and asked whether they, in their ministry, did walk in such a way. They all acknowledged they did." After much debate, "the court adjudged him (Mr. Wheelwright) guilty of sedition and also of contempt, for that the court had appointed the fast as a means of reconciliation of the differences, etc., and he purposely set himself to kindle and increase them." A protest against the proceedings, signed by the governor and others, was rejected, because it wholly justi-

* Winthrop, I., 214.

fied Mr. Wheelwright. The church of Boston also tendered a petition in his behalf, justifying the sermon. The court deferred sentence to the next session, and advised with the ministers whether they might enjoin his silence. They answered that they were not clear on the point, but desired that he might be commended to the care of the church of Boston, which was done, and he was enjoined to appear at the next court.

At the same session, a vote was passed that Stephen Greensmyth 'for affirming that all the ministers (except Mr. Cotton, Mr. Wheelwright, and he thought Mr. Hooker), did teach a covenant of works,' be for a time committed to the marshal, and he was afterwards sentenced to make acknowledgment to every congregation, pay a fine of forty pounds, and be bound in one hundred pounds until the sentence be complied with.

There was so much contention between the parties that it was moved that the next court, being the court of the annual election, be held at Cambridge. The governor refused to put the vote, and the deputy, Winthrop, declined, as he lived in Boston, so the vote was put by Endicott and carried. The ministers also agreed to put off all lectures for three weeks, "that they might bring things to some issue." *

May 17, 1637, the annual meeting of the General Court for elections was held at Cambridge. Upon its assembling at about one o'clock, a petition from Boston was presented. The governor desired that it should be read, but the deputy,

* Mass. Records, I., 187-91. Winthrop, I., 214-19.

Winthrop, said it was out of order ; that it was a court for elections, which should first be attended to, and that then petitions could be heard. It was understood that the petition was for the purpose of procuring a revocation of the vote of the preceding court, against Mr. Wheelwright. After much time spent in discussion, there was a call from the people for election, and, upon motion of Mr. Winthrop, it was voted, by a large majority, to proceed to the election, but Vane and his party refused, when Winthrop said that if they would not proceed, he and the others on his side would ; whereupon an election was held, and Winthrop was chosen governor, and Dudley deputy governor, and, according to Winthrop, " Mr. Vane, Mr. Coddington, and Mr. Dummer (being all of that faction) were left quite out," and " there was a great danger of tumult that day ; for those of that side drew into fierce speeches, and some laid hands on others, but seeing themselves too weak, they grew quiet." Encouraged by this success, the majority took another step. Many persons were expected from England, who it was supposed were in sympathy with the opinions of the Boston church, and it was ordered by the court " that no town or person shall receive any stranger resorting hither with intent to reside in this jurisdiction " for more than three weeks, unless permitted under the hand of one of the standing council, or two others of the magistrates ; and a penalty was fixed for any infraction of the order. The sentence of Mr. Wheelwright was deferred to the next session of the court. Mr. Winthrop states that the intent of the court in deferring the sentence was

that, having now power enough to crush the faction, "their moderation and desire of reconciliation might appear to all." *

These proceedings increased the discontent in Boston. That town had deferred the election of deputies, and on the day after the election chose Vane, Coddington, and Hoffe as deputies. The General Court refused to receive them, on the ground that two freemen had not been notified of the election, but the next morning they were chosen again and admitted.

The sergeants who had attended Governor Vane refused to act under the new governor, who employed two of his own servants for the duty. † Vane and Coddington showed resentment at being left out of the magistracy, and refused to sit in the magistrates' seats, though requested to by Governor Winthrop, and both kept the next general fast with Mr. Wheelwright, at Mount Wollaston. ‡ On June 20, Lord Ley, son and heir of the Earl of Marlborough, then nineteen years of age, arrived in Boston in the ship *Hector*. Soon after his arrival, Governor Winthrop invited Lord Ley, Vane, and others to dine with him, but Vane refused to accept the invitation, and went over to Noddle's Island with Lord Ley to dine with Mr. Maverick at the same hour. § On the third day of August, Vane and Lord Ley embarked for England. They were attended to the ship by many of the friends of Vane, who gave in his honour volleys of shot and dis-

* Mass. Records, I., 194-97. Winthrop, I., 222-24.

† Winthrop, I., 220.

‡ Ibid, 224.

§ Ibid, 232.

charged five pieces of ordnance, and he received five more at the castle. * Vane never returned, and it must be said in his honour that, notwithstanding his mortification at what had been done, he afterwards, when in influential positions in England, always manifested a kind interest in the success of the colony.

Soon after the election of Winthrop as governor, the treatment of Mr. Wheelwright and the subject of the differences in the churches was discussed in writing by the magistrates, the friends of Mr. Wheelwright, by Mr. Wheelwright himself, Mr. Cotton, and the other ministers. Of this discussion, Winthrop said, "Mr. Cotton also replied to their answer very largely and stated the differences in a very narrow scantling; and Mr. Shepherd, preaching at the day of election, brought them yet nearer, so as, except men of good understanding and such as knew the bottom of the tenets of those of the other party, few could see where the difference was.†" After this, for several months, owing probably to the absorbing interest taken in the Pequot war, the subject of the differences was allowed to rest. The next record of it is in the early part of August, when Mr. Hooker and the rest of the elders held a meeting which continued several days, at which, with the consent of the magistrates, they appointed the 30th day of the month for a conference of all the churches in reference to the differences, in accordance with a vote of the last General Court. At this meeting a partial reconciliation was made between Mr. Cotton, Mr.

* Winthrop, I., 235.

† Ibid, 221.

Wheelwright, and Mr. Wilson upon the subject of Mr. Wilson's speech, but nothing was done in regard to the more important differences. * The conference, or synod, as it was called, accordingly met on August 30, at which all the teaching elders, and Mr. Davenport and others who had recently arrived from England, assembled. At the opening of the synod, first, eighty erroneous opinions, which had probably been previously prepared and written out, were read, then nine unwholesome expressions, and others abusing the Scriptures. These opinions were all condemned by the whole assembly. After this five points were raised between Mr. Cotton and Mr. Wheelwright on the one part, and the rest of the elders on the other, which were afterwards reduced to three, which, after modification, were accepted by Mr. Cotton and all the others, except Mr. Wheelwright. The last day of the synod four resolutions were adopted, the first, "that though women might meet (some few together) to pray and edify one another; yet such a set assembly (as was then in practice at Boston) where sixty or more did meet every week and one woman (in a prophetic way, by resolving questions of doctrine and expounding Scripture) took upon her the whole exercise, was agreed to be disorderly and without rule." The second resolution was, in substance, that, although a private member might ask a question publicly after a sermon, for information, yet this should be done very wisely and "sparingly," with the leave of the elders; but the questions "then in use," reproving the

* Winthrop, I., 236.

doctrines preached and reproaching the elders, which had been done "with bitterness," were utterly condemned. The third was, that the censure of the church might be given against a person in his absence, who refused to be present ; but that it was better he should be compelled by the magistrates to be present. The fourth was, that a member of a church differing from the others in an opinion which was not fundamental, ought not to forsake the church ; and that if such a one asked dismissal to another church which held his opinions, and for that reason, it should be refused.*

The synod, instead of "pacifying the troubles and dissensions about matters of religion," increased them ; and "though Mr. Wheelwright and those of his party had been clearly confuted and confounded in the Assembly, yet they persisted in their opinions and were as busy in nourishing contentions (the principal of them) as before."

Mrs. Hutchinson continued her meetings, and, with her followers, persisted in criticising and denouncing the ministers who preached doctrines contrary to her opinions. Meetings in the churches on the Sabbath were disturbed by questions propounded to the ministers, at the close of their sermons, by the partisans of the "new opinions," and Mrs. Hutchinson went so far as to turn her back upon Mr. Wilson, and leave the church, when he preached.†

* Winthrop, I., 237-41.

† Winthrop, I., 244-45. Preface to short story by Weld. Hosmer's life of Vane, 50.

The spirit of faction had become so intense as seriously to threaten the disruption of the churches and the Commonwealth. All the attempts on the part of Winthrop and the large majority of the ministers and people to stay its progress had proved ineffectual, and it was determined that decisive and vigorous action be taken; "whereupon the General Court being assembled on the 2d of the ninth month (November), and finding upon consultation that two so opposite parties could not contain in the same body without apparent hazard of ruin to the whole, agreed to send away some of the principal."* The first action taken was against three deputies of the General Court, Aspinwall, Coggeshall, and Sergeant Oliver. The offence of Aspinwall was that he had signed the petition, or remonstrance, to the General Court in favour of Mr. Wheelwright, in March preceding, and being called upon, justified it; whereupon it was voted that he should no longer hold his seat as deputy. The offences of Coggeshall and Oliver were, that they justified the said petition, and the same sentence was imposed upon them. Afterwards, at the same session, Aspinwall was disfranchised and banished, and Coggeshall disfranchised. The court next proceeded against Mr. Wheelwright, and voted that he be disfranchised and banished, to leave the colony within fourteen days. Next, Mrs. Hutchinson was convicted, and, after an examination which lasted two days, was banished.†

The court then adjourned to November 15, at which

* Winthrop, I., 245.

† Mass. Records, I., 205-18.

adjourned session Sergeant Balston and Sergeant Hutchinson, for signing the said petition and justifying it, were disfranchised and fined; and Captain Underhill, the Indian fighter, for the same offence, was disfranchised and removed from his office as captain. Four others were disfranchised on the same charge, and an order was passed that seventy-six men named, of whom fifty-eight were Boston men, should be disarmed. A further order was passed that the powder and ammunition of the colony in Boston should be removed, part to Cambridge and part to Roxbury, under the charge of Dudley and Herlakenden.*

All these proceedings, with statements justifying them, were sent to England to be published there, to the end, according to Winthrop, "that all our godly friends might not be discouraged from coming to us." The action of the General Court gave great offence to the members of the church of Boston, who made an earnest effort with the elders to have Winthrop called to account for it, but he, to prevent "such a public disorder," addressed the congregation, and said that the church had no right to call in question the proceedings of the civil court; that a magistrate is accountable to the church for his private acts, but not for what he does in the performance of judicial duties, even if his action is unjust; that his oath of office required him to vote according to his judgment and conscience for the public good, and that "he was persuaded that it would be most for the glory of God and the public good to pass sentence as they did," and that he

*Mass. Records, I., 209.

would give one reason for his judgment, and that was "for that he saw that those brethren were so divided from the rest of the country in their judgment and practice, as it could not stand with the public peace that they should continue amongst us." *

The severe measures that had been taken caused much excitement and indignation amongst the disciples of Mrs. Hutchinson ; but the faction had received its death-blow, and within a short time many who had been engaged in it saw the evil tendency of their acts, as was especially shown by the vote of censure of Mrs. Hutchinson, and her expulsion from the church of Boston, a few months after her sentence.

The experience of the authorities with Mrs. Hutchinson and her adherents affords a striking illustration of the danger from schism, in that period. Toleration in religious matters was not allowed, nor could it be with safety. Our experience at the present day proves to us how susceptible the people are to the passions and prejudices engendered by the differences between the sects and denominations, notwithstanding the immense intellectual and moral advance that has been made. In the days of Winthrop, toleration would inevitably, and everywhere, have resulted in bitter and relentless strife. The colonists had been educated in England in the belief that there was safety only in the unity of the Church.

They proceeded to establish here a church government in accordance with their own views, to be entirely inde-

* Winthrop, 1., 248-50.

pendent of the government of the Church of England, but they never intended or pretended that, when established, toleration would be allowed, or that any other church government would be permitted.

They established here a church, which they declared to the world should be the only one, and, in insisting upon conformity and respect for its ordinances and priesthood, they followed the rules of the English Church.

CHAPTER VII.

THE PEQUOT WAR.

PENDING these dissensions, the colonists were called upon to engage in a war with the Indians. The ravages committed by the expedition against Block Island and the Pequots the preceding year greatly exasperated the red men.

In the autumn and winter of 1636, the Connecticut colonists were kept in constant alarm. Indians skulked about the settlements, and waylaid and murdered, often with fiendish tortures, any who ventured at a distance from their houses, and in the spring of 1637, in a body, made an attack upon the settlement at Wethersfield, killed nine persons, and carried off captive two girls. They also invested the fort at Saybrook. In all, some thirty of the settlers were killed.

At that time, settlements had been made at Hartford, Windsor, and Wethersfield, and the entire male population of Connecticut did not exceed three hundred. Of these, ninety men were mustered into the service under the command of Captain John Mason, who had been a gallant soldier in the war in the Netherlands,* and a call

* Ancestor of Honourable Jeremiah Mason.

was made upon Massachusetts and Plymouth for aid. The alarm early reached Massachusetts. Information was received soon after the return of Endicott, in October, 1636, that the Pequots were making strenuous efforts to induce the Narragansetts to join with them in a war of extermination against the English. But this was prevented, largely through the influence of Roger Williams. He gave notice to Massachusetts of the threatened danger, and, by his persuasion, the chiefs of the Narragansetts came to Boston, and made a treaty of alliance with the colony, and promised aid in the war with the Pequots, who were their hereditary enemies.

But the fear of a general uprising of the Indians was so great, that at a session of the General Court in December, 1636, the governor and council were instructed to take into consideration the subject of a war with the Pequots, and to report at the next session,* and, at an adjournment of the court in March ensuing, it was ordered that the military officers should provide that watches be kept in the several towns, at such points as were most necessary for the common safety, and that each town should provide a sufficient watch-house; also, that all male inhabitants in the country towns, above eighteen years of age, should attend all public assemblies with muskets or other arms fit for service, and be furnished with match, powder, and bullets, and that no person should go more than one mile from his house, except where there were other houses, without being armed. At a special session, held April 18, it

* Mass. Records, I., 187.

was ordered that the war with the Pequots "should be seriously prosecuted," and that the several towns should furnish their quotas of one hundred and sixty men, including a force of twenty men under Captain Underhill, which had been a few days before dispatched by Governor Vane, to re-enforce the fort at Saybrook, and, in case of deficiency in the number of men, the council was authorised to "impress such as are not freemen in their discretion."*

But the critical condition of the people of Connecticut did not admit of any delay, and on the 10th day of May, Mason, with his Connecticut men, and Uncas, sachem of the Mohegans, with eighty men of his tribe, embarked at Hartford in three small vessels, and arrived at Fort Saybrook May 17. The expedition was detained there several days on account of head winds.†

The country of the Pequots extended on the south from the Connecticut to the Mystic, a distance of about thirty-five miles, and about sixty miles inland. The Pequots, expecting an attack, had sent the wives and children of their principal men to Long Island; and had established two fortified villages, one on the Mystic, and the other a few miles further inland.

The fortification on the Mystic was about six miles from Pequot Harbour.

Mason's instructions were to land at the mouth of the Pequot, now Thames River, and from there to march inland

* Mass. Records, 191-93.

† For a full account of the Pequot War see Mason's History, Mass. Hist. Coll., 2d series, VIII., 133.

and attack the fortifications. The Indians anticipated this plan of attack, and kept scouts posted in sight of the expected landing-place, who should give notice of the enemy's approach. Upon consideration, Mason came to the conclusion that the plan of the campaign was an injudicious one, as the Indians would harass his men on the march, and, if defeated in an engagement, would scatter through the woods where they could not be successfully followed; and he proposed to abandon the plan, and to attack the fortifications by a flank movement through the Narragansett country, hoping thereby to take the enemy by surprise. This was opposed by the other officers, whereupon Mason "earnestly desired Mr. Stone (the chaplain) that he would commend our condition to the Lord, to direct how and in what manner we should demean ourselves." Mr. Stone spent the night in prayer, and in the morning advised the men to trust to the guidance of their captain, which satisfied all. Mason left at Fort Saybrook twenty of his men, who were to return home for the protection of the settlements, and took in their place Underhill with nineteen "lusty men well armed," and, on May 23, landed his force at Narragansett. As the Indians saw the vessels sail by the mouth of the Pequot they supposed the English had abandoned their undertaking, which caused great rejoicing.

Upon landing, Mason had an interview with Miantonomo, sachem of the Narragansetts, and obtained from him permission to march through his country, but was told that his force was too small for the undertaking.

While here, he received information that Captain Patrick, with forty men from Massachusetts, was on a hurried march to join him. But his men were impatient, and Mason feared that, if he delayed, information might reach the enemy; and the next morning he advanced with his force, consisting of seventy-seven Englishmen, as many Mohegans and two hundred Narragansetts. In two days, after a march of thirty-five miles, the little army encamped in a valley between two hills, about two miles from the fortification on the Mystic. It was the original intention of Mason to divide his force and make a simultaneous attack upon both forts, but learning the strength of the enemy, and the distance between the fortifications, he decided to concentrate his force on the Mystic, which was the principal fortification. Two hours before break of day of the next morning, May 26, after joining in prayer, they broke camp, and, guided by a Pequot deserter, marched cautiously toward the fort.

Many of the Narragansetts had deserted, and those that remained were much frightened, and fell behind the English. They were assured by Mason that they should receive no harm; that the English would enter the fort, and they might remain outside and seize such of the Pequots as should escape from it. The area of the fortification was one or two acres, and was surrounded by saplings about twelve feet high, set in the ground close together, and by an embankment of earth three feet high. Within were two streets, bordering on which were some seventy wigwams, close together, covered with mats and

thatch. There were two entrances, one on the east and the other on the west side, which were protected by branches of trees about breast high. Mason divided his force, one-half under Underhill was to make an attack at the west entrance, and he with the rest of the force was to make an attack at the east entrance. The force under Mason had marched to within a few feet of the fort when the first alarm was given. He at once forced his way through the entrance, and was followed by his men. The Indians made a stout resistance with their hatchets, tomahawks, and bows and arrows, killing two and wounding twenty of the assailants. Seeing the danger to which they were exposed, Mason seized a firebrand and set fire to a wigwam, which example was followed by Underhill on the other side of the fort, and, aided by a brisk wind, in a short time the whole village was in a blaze.

The English retired from the fort, and shot at the Indians, who rushed out through the passageways, or attempted to escape by climbing over the palisades; and those who escaped their bullets were seized by the Mohegans and Narragansetts who surrounded the fort. In a little more than one hour the work was finished.

Sassacus, the night before, sent one hundred and fifty men from his fort to the Mystic fort, to co-operate with the men there in an offensive movement against the English, and they perished with their fellows.

More than six hundred Indians perished in the fire or by the sword. Seven only escaped and seven were taken prisoners. Within an hour after sunrise Mason was on

the march for Pequot Harbour. Soon after leaving the fort, a force of about two hundred Indians from the other village appeared. When they saw the smouldering ruins of the village and the dead bodies of their tribesmen, they set up a hideous howl and made a desperate attack upon the enemy. Mason employed his Indian allies to carry the wounded, and with the rest of his force kept the Indians in check, until he had reached the landing, at which his vessels, bringing Patrick and his men, had arrived from Narragansett. He then placed the wounded on board the vessels, and with the rest of his men marched overland to Saybrook. He was received at the fort with rejoicings, and "nobly entertained by Lieutenant Gardiner with many great guns." From there, Mason with his men sailed to Hartford, where they "were entertained with great triumph and rejoicing, and praising God for his goodness."

Early in May, Winslow, representing the governor and council of Plymouth, came to Boston to treat with the authorities of Massachusetts about joining with them in the war. He stated that Plymouth could do nothing till a meeting of its General Court, which was to be held on the first Tuesday of June. He complained that Massachusetts had refused aid to Plymouth against the French, who had seized their trading house on the Penobscot; that its people had interfered with the trade of the Plymouth people on the Kennebec, and that its colonists in Connecticut had seized and held land there, of which the Plymouth people had prior possession; and closed with

the plea of the poverty of Plymouth, and the ability of Massachusetts, which needed no help from its poorer neighbour.

May 17, the day on which Mason arrived at Fort Saybrook on his expedition, the session of the General Court for annual elections was held at Cambridge. Winthrop was re-elected governor, and Dudley, deputy governor. It was ordered that fifty more men be raised for the war. It was also provided that the assistants and ministers should both be represented in the expedition. Of the assistants, three were named, John Winthrop, the younger, Simon Bradstreet, and Captain Israel Stoughton. Of these, Stoughton was selected by lot. Of the ministers, Mr. Wilson and Mr. Eliot were named, "and a lot was cast between them in a solemn public invocation of the name of God," which fell to Mr. Wilson.

The first report received of the attack upon the fort at Mystic was that all the English were killed, but in a few days, probably about the first of June, information was received of the capture of the fort and the destruction of the Pequots ; upon which the governor and council deemed it unnecessary to send the whole force that had been ordered, and issued warrants for only one hundred men. But this caused dissatisfaction with many, and it was decided to send forty more. Intelligence of the victory was not received at Plymouth until the evening of June 5. On that day the General Court of Plymouth passed an order, information of which Winslow sent by a messenger to Winthrop, that Plymouth would forward at least forty

men for the war, to be dispatched in vessels, but that, for want of suitable vessels, they could not be immediately sent.

Stoughton, with his forces, as soon as collected, started for Connecticut. Meanwhile, Sassacus, with the remnant of his tribe, destroyed their remaining fortified village, and, dividing into several parties, started westward. Stoughton followed them to the Connecticut, where, learning that a large number had returned to the Pequot country, he followed them, and, ascertaining where they were encamped, surprised them by an attack in the night, and put to death twenty-two men and captured between seventy and eighty women and children, of whom he gave the Narragansetts thirty, the Massachusetts Indians three, and sent the remainder to Massachusetts.

The last of June, Stoughton, with Mason and about eighty men, sailed up the sound in pursuit of Sassacus and the other Pequots with him. Upon information of this, Sassacus, with Miantonomo and about twenty others, fled to the Mohawks, by whom, it is said, he was murdered. Information was given by a deserter that the main body was encamped by the side of a great swamp, near to what is now New Haven. Upon the approach of Stoughton and his men they fled into the swamp. A demand was made for a surrender. This was accepted by about one hundred old men, women, and children, but the warriors refused to yield, and, protected by the darkness of the night, about seventy escaped.

In the autumn of 1638 the remaining Pequots, number-

ing about two hundred warriors, with their families, surrendered to the English, and were portioned out between the Narragansetts and Mohegans. This ended the war ; and from its close to King Philip's war, a period of nearly forty years, there was no serious trouble with any of the remaining tribes.

CHAPTER VIII.

CLOSE OF CONTROVERSIES WITH THE KING; MEETING OF THE LONG PARLIAMENT; ITS EFFECTS UPON EMIGRATION AND UPON THE COLONISTS. JURISDICTION OVER THE NEW HAMPSHIRE TOWNS AND SPRINGFIELD.

GORGES and Mason were the most active members of the Council for New England. They received from it patents for New Hampshire and Maine; and expended large sums of money in attempts at colonisation. But after an experience of many years they became satisfied that they would receive no adequate returns from their investments.

They regarded with jealousy the success of the Massachusetts colony, which they claimed had surreptitiously obtained its patent and a confirmation by the king, in which was included valuable territory covered by prior grants to Mason and to the son of Gorges.

Under these discouragements, the Council for New England, at a meeting held in April, 1635, divided up the entire territory given in their charter, ignoring all grants they had made, into twelve parts, to be held by the principal members of the company in severalty, the whole to be presided over by a general governor to be appointed by

the king. (A similar division was attempted soon after the grant of their charter, but was never completed.) At the same meeting it was agreed to surrender their charter, on condition that the division be confirmed by the king; and a request was made that the charter of the Massachusetts Company be revoked; and that any persons occupying land, or entitled to it, under any grant, might have their titles confirmed upon payment of "reasonable" amounts to the lord of the province in which they claimed, and upon their surrendering all rights of government. In June following, the Council for New England executed a formal surrender of its charter, and of "all and every of the liberties, licenses, powers, privileges and authorities therein granted." *

Information of these proceedings caused alarm in the colony, and the fear of the appointment of a general governor was renewed; but soon after, a letter was received from Lord Say and Sele, giving information that "Captain Mason and others, the adversaries of this colony, had built a great ship to send over the general governor, which, being launched, fell in sunder in the midst . . . but the project took not effect. The Lord frustrated their design." †

In September following, at Trinity term of the court, upon the application of Sir John Banks, attorney-general of England, leave was granted to file an information against the Massachusetts Company, upon which a *quo warranto* was issued. This was served on Cradock and

* Hubbard, 226 — 233.

† Winthrop, I., 161.

others of the company in England, by the sheriff of London.

The only substantial charges made in the *quo warranto* were, that the company maintained two councils, or governments, one in Massachusetts and the other in England; and that it had exercised legislative and judicial powers contrary to the laws and customs of England; but no charge was made that the government in the colony was not duly authorised.

The members summoned, appeared, and all but Cradock pleaded that they never usurped any of said liberties, and disclaimed; and judgment was rendered against them that they should not for the future intermeddle with any of said franchises, and should be forever excluded from the use of the same. Cradock appeared, and then made default, upon which, judgment was rendered that he should be convicted of the usurpation charged, and that the liberties, privileges, and franchises should be taken and seized into the king's hands. The records of the court show that "the rest of the patentees stood outlawed and no judgment entered up against them."*

No further attempt was made to obtain judgment against the company. In 1678, Jones and Winnington, two of the most eminent lawyers in England, gave it as their opinion, that the *quo warranto* "was neither so brought, nor the judgment thereon so given, as to cause a dissolution of the patent."† Their reasons are not given. It is not improbable that their ground, or principal ground,

* Hutchinson papers, 101.

† Chalmers, I., 55.

was that no process had been served on the company in Massachusetts. On a similiar proceeding against the company in 1683, which was abandoned, the sheriff did not return the summons; and among the reasons for it, he made it "a question whether he could take notice of New England, being out of his bailiwick." If, in either of these cases, the court had been of opinion that the government of the colony was by the charter, to be and remain in the realm, would it not have recognised the council in England as the true representative of the company, and have ordered service of process on it?

The death of Mason the next winter, which Winthrop regarded as an "act of the Lord in His mercy," discouraged Gorges for the time, but Laud and the king made increased efforts to stop the tide of emigration. Shortly after the issuing of the *quo warranto*, an order was made "to stop ministers unconformable to the discipline and ceremonies of the Church," from being transported to His Majesty's plantations abroad. This was followed, in April, 1637, by another order to the officers of the ports, "against the disorderly transporting His Majesty's subjects to the plantations within the parts of America," and in May an order was passed by the council, for the attorney-general to again call for the Massachusetts patent. Little having been accomplished by these orders, in July, 1637, the king appointed Sir Ferdinando Gorges governor-general of the whole country. But the colonists were spared the infliction. The reason of it is tersely given by Chalmers, who was no

friend to the colony. He states, "As every charter was now supposed to have been either cancelled or resigned, Charles the First assumed the government of New England in July, 1637, in order to redress the mischiefs that had arisen out of the different humours, and he appointed over it Sir Ferdinando Gorges, as governor-general, 'whose gravity, moderation, and experience gave hopes of repairing what is amiss in that disjointed settlement,' but that loyal gentleman was invested with powers which could not be executed among such a people, during such a season, without an army, and his sovereign had no army to send." *

In March, 1638, an order was passed for the stay of eight ships then in the Thames, ready to sail for New England. "But upon the petition of the masters, and suggestion of the great damage it would be to the Commonwealth in hindering the New Foundland trade which brought in much money, etc., they were presently released." † The next month, a peremptory order was passed, requiring the return of the charter, which was followed by an order prohibiting the transportation of passengers to New England without a license, and another against the transportation of unconformable ministers. Yet, notwithstanding these orders, "there came over this summer, twenty ships, and at least three thousand persons." ‡

* Chalmers, I., 57.

† Winthrop, I., 266.

‡ Ibid, 268.

In March, 1638, a select military company was organised, with the consent of the General Court, and is now known as the Ancient and Honourable Artillery Company.

At the session of the General Court in September following, "it was agreed that, whereas a very strict order was sent from the Lords Commissioners for Plantations, for the sending home our patent, upon pretence that judgment had passed against it upon a *quo warranto*, a letter should be written by the governor, in the name of the court, to excuse our not sending of it, for it was resolved to be best not to send it, because then, such of our friends and others in England, would conceive it to be surrendered, and that thereupon we should be bound to receive such a governor and such orders as should be sent to us, and many bad minds, yea, and some weak ones among ourselves, would think it lawful, if not necessary, to accept a general governor." *

A letter to the Lords Commissioners for Plantations was accordingly prepared by Winthrop and sent. In it, an appeal was made for justice, followed by a statement, in unmistakable language, of what the colonists would regard as the only course open to them, if their rights and liberties should be improperly interfered with. It was a precursor of the Declaration of Independence, a century and a half later. In the address, grief is expressed that the patent should be called for, "there being no cause known to us, for that purpose," and the request was made, "to afford unto us the liberties of subjects, that we may know what is laid to our charge, and have leave and time to answer for ourselves before we be condemned as a people unworthy of His Majesty's favour or

* Winthrop, I., 269.

protection; as for the *quo warranto* mentioned in the said order, we do assure Your Lordships that we were never called to make answer to it, and if we had been we doubt not but we have a sufficient plea to put in. It is not unknown to Your Lordships, that we came into these remote parts with His Majesty's license and encouragement, under his great seal of England, and in the confidence we had of the great assurance of his favour, we have transported our families and estates, and here have we built and planted to the great enlargement and securing of His Majesty's dominions in these parts, so, as if our patent should be now taken from us, we should be looked at as renegades and outlaws, and shall be enforced either to remove to some other place, or to return to our native country again, either of which will put us to insuperable extremities, and these evils (among others), will necessarily follow:

"1. Many thousand souls will be exposed to ruin, being laid open to the injuries of all men.

"2. If we be forced to desert the place, the rest of the plantations about us (being too weak to subsist alone) will, for the most part, dissolve and go along with us, and then will this whole country fall into the hands of French or Dutch, who would speedily embrace such an opportunity.

"3. If we should lose all our labour and costs, and be deprived of those liberties which His Majesty hath granted us, and nothing laid to our charge, nor any failing to be found in us in point of allegiance (which all our country-

men do take notice of and will justify our faithfulness in this behalf), it will discourage all men hereafter from the like undertakings upon confidence of His Majesty's royal grant.

"4. Lastly : If our patent be taken from us (whereby we suppose we may claim interest in His Majesty's favour and protection), the common people here will conceive that His Majesty hath cast them off, and that, hereby, they are freed from their allegiance and subjection, and thereupon, will be ready to confederate themselves under a new government for their necessary safety and subsistence ; upon these considerations, we are bold to renew our humble supplications to Your Lordships, that we may be suffered to live here in this wilderness, and that this poor plantation, which hath found more favour with God than many other, may not find less favour from Your Lordships, that our liberties should be restrained when others are enlarged ; that the door should be kept shut unto us while it stands open to all other plantations ; that men of ability should be debarred from us while they have encouragement to other colonies."*

A few months after, "the governor received letters from Mr. Cradock, and in them another order from the Lords Commissioners to this effect : that whereas they had received our petition upon their former order, etc., by which they perceived that we were taken with some jealousies and fears of their intentions, etc., they did accept of our answer, and did now declare their intentions to be

* Hubbard, 269-271.

only to regulate all plantations to be subordinate to the said commission, and that they meant to continue our liberties, etc., and, therefore, did now again peremptorily require the governor to send them our patent by the first ship; and that in the meantime, they did give us, by that order, full power to go on in the government of the people until we had a new patent sent us, and withal, they added their threats of further course to be taken with us, if we failed."

"This order being imparted to the next General Court, some advised to return answer to it, others thought fitter to make no answer at all, because, being sent in a private letter and not delivered by a certain messenger, as the former order was, they could not proceed upon it, because they could not have any proof that it was delivered to the governor; and order was taken that Mr. Cradock's agent, who delivered the letter to the governor, etc., should in his letters to his master make no mention of the letters he delivered to the governor, seeing his master had not made any charge upon him to that end."*

But affairs in England were approaching a crisis. Charles had made an unsuccessful attempt to force the government of the Anglican Church upon Scotland; and before the delivery of the last order the Scots were in arms, and threatened an invasion of England; and from this time the attention of the king and Privy Council was fully occupied in defensive measures. This order proved to be the last communication between the government of

* Winthrop, I., 298, 299.

Massachusetts and the king and council ; and for more than twenty years thereafter, all the correspondence of England with the colony was through its Parliament or Cromwell.

The necessities of Charles were so pressing that he was compelled to call a Parliament, after an interval of nearly twelve years. This caused great rejoicing among the people, who hoped through it to obtain a redress of grievances. It met in April, but the Commons proving refractory, it was dissolved in May. The king resorted to different expedients to raise money ; but in August, the army of the Scotch Covenanters, consisting of 23,000 infantry and 3,000 cavalry, crossed the Tweed. When upon English ground the Covenanters published a declaration that they "had undertaken this expedition at the call of the same divine Providence which had hitherto guided their steps ; that they marched not against the people of England, but against the Canterburian faction of papists, atheists, Arminians and prelates ; and that God and their conscience bore them testimony that their object was the peace of both kingdoms, by punishing the troublers of Israel, the firebrands of hell, the Korahs, the Balaams, the Doegs, the Rabshakahs, the Hamans, the Tobiahs, and Sanballats of the time, after which they would return with satisfaction and pride to their native country."*

Upon this, Charles called a meeting of the peers, but upon their advice, and in response to numerous petitions from the people, he called a new Parliament to meet on

* Rushworth, II., 1226. Lingard Hist. Eng., IX., 380.

November 3. Upon the assembling of the Commons, Charles found he could control only a small minority of its members ; and instead of voting supplies to the king, the House devoted itself to the redressing of grievances, and the arrest and trial of the most obnoxious of the advisers of the king.

The determination shown by Parliament to redress grievances, both civil and religious, gave great encouragement to the reformers in England ; and, as a result, emigration suddenly stopped ; and for twenty years after 1640 more persons returned to than arrived from England. The effect of this upon the colony was very great. The colonists had depended largely upon sales of their cattle and corn to the newcomers, which furnished them with money for the purchase, in England, of such articles as they needed. This important source of revenue was stopped upon the cessation of immigration. The prices of cattle and agricultural products very largely declined, and the colonists were deprived, to a great extent, of the means for purchasing manufactured and other necessary articles in England, and for the payment of their debts. The distress occasioned was so great that, in October, 1640, the General Court passed the following order : " Forasmuch as it appeareth unto this court that there is a great stop in trade and commerce for want of money, for preventing of like mischief for time to come it is ordered that after the last day of this month no man shall be compelled to satisfy any debt, legacy, fine, or any other payment in money, but satisfaction shall be accepted in corn,

cattle, fish, or other commodities, at such rates as this court shall set down from time to time; or, in default thereof, by appraisement of indifferent men, to be appointed by the officer;" and the rate of the different commodities was fixed for the time. Subsequently, at the same session, the order was slightly changed, and made to apply to existing indebtedness, and to include the taking of land and houses, if the personal property should not be sufficient to discharge the debt.*

It appearing to the court, "that wheat is like to be a staple commodity;" and as a ship was to be dispatched with wheat, "for the fetching in of such foreign commodities as we stand in need of," it was ordered, under a penalty, that, after the last day of the month, no baker, or other person, should bake, for sale, any bread made in whole or in part of wheat meal.†

At the same session it was ordered that white wampum should pass at four a penny and blue at two a penny, but should be legal tender for not more than twelve pence,‡ which was the next year increased to £10.§ This was continued two years. In 1643 it was reduced to forty shillings. This was a currency consisting of white and blue beads, manufactured by the Indians from sea-shells, gathered principally on the shores of Long Island Sound. They were cylindrical and about one-quarter of an inch in length, and highly polished, with a hole drilled through them, so that they could be strung. They were first used

* Mass. Records, I., 304, 307.

† Ibid, 302.

‡ Ibid, 337.

§ Ibid, 329.

as ornaments, and sold to the tribes in the interior ; and the Pequots and Narragansetts, whose lands bounded on the sound, were said to have grown "rich and potent" from the manufacture and sale of them. The English early used them in trading with the eastern tribes, and afterwards as a circulating medium among themselves. Beaver skins, as they had a market value in England, were as valuable in commerce as coin. In June, 1641, the General Court gave to certain persons named, and their associates, the exclusive control of the trade with the Indians ; and authorised them, for the purpose, to use all kinds of commodities except guns, ammunition, and other weapons, they to give to the Government one-twentieth of all furs they should purchase.*

The attention of the people was also called, by the necessities of the time, to the importance of encouraging manufactures and commerce.

The General Court, in May, 1640, declared "the absolute necessity" that existed for the manufacture of linen cloth ; and ordered the magistrates and deputies of the several towns to make this necessity known to their people, and to ascertain what seeds were in their respective towns, and what men and women were skilful in the breaking, spinning, and weaving of hemp and flax ; and what means there were for providing spinning wheels ; and to consult with them with reference to the raising the raw material and the manufacture of it ; also what steps should be taken to teach the children of both sexes to spin yarn and

* Mass. Records, I., 322.

weave cotton wool, and to report at the next session.* At the October session a bounty of 3*d.* on every shilling's worth of linen, woollen, and cotton cloth made in the colony was voted,† but at a session held in June, 1641, upon a statement that the payment of this bounty was "over burdensome to their present wants," the order was repealed.‡ At the same session, apprehension was expressed of a deficiency in clothing the next winter; and, as a supply of cotton could not be immediately obtained, it was ordered that the deputies give speedy notice to the people of their respective towns, to gather and use, in the place of cotton, the wild hemp, which grew everywhere abundantly; and that all masters of families "should see that their children and servants should be industriously employed, so as the mornings and evenings and other seasons may not be lost, as formerly they have been (and if it be so continued will certainly bring us to poverty); but that the honest and profitable custom of England may be practiced amongst us, so as all hands may be employed for the working out of hemp and flax, and other needful things for clothing, without abridging any such servants of their due times for food and rest or other needful refreshings."§ In May, 1642, it was ordered that the "chosen men" of the several towns should see to it that such children "as are set to keep cattle, be set to some other employment withal, as spinning upon the rock,|| knitting, weaving tape, etc." ¶

* Mass. Records, I., 294. † Ibid, 303. ‡ Ibid, 320. § Ibid, 322.

|| Rock — a distaff held in the hand for spinning. ¶ Mass. Records, II., 9.

The importance of carrying on commerce in our own vessels was also felt, and, according to Winthrop, "The general fear of want of foreign commodities, now our money was gone, and that things were like to go well in England, set us on work to provide shipping of our own, for which end Mr. Peters, being a man of a very public spirit and singular activity for all occasions, procured some to join for building a ship at Salem, of 300 tons, and the inhabitants of Boston, stirred up by his example, set upon the building of another at Boston, of 150 tons. The work was hard to accomplish for want of money, etc., but our shipwrights were content to take such pay as the country could make." *

This year, 1640, Dudley was elected governor, "with some difficulty, for many of the elders laboured much in it, fearing lest the long continuance of one man in the place should bring it to be for life, and, in time, hereditary." The elders met in Boston on the subject, and sent some of their number to Winthrop to inform him of their action, and to assure him it was not done out of dislike of his government, and seriously professing their sincere affection and respect towards him, "which he kindly and thankfully accepted, concurring with them in their motion." †

At the session of the General Court in October, the elders presented a written request that the respective powers of the churches and magistrates might be defined — "That the churches might know their power and the

* Winthrop, II., 24.

† Ibid, 3.

civil magistrate his," and "declared that the civil magistrate should not proceed against a church-member before the church had dealt with him, with some other restraints which the court did not allow of," and the subject was referred for further consideration, "and it appeared, indeed, that divers of the elders did not agree in those points." *

At the same session, the report of the commissioners of Massachusetts and Plymouth, on the boundary between the colonies, "that the bounds should be that branch of Conyhasset creek nearest to Scituate, with 60 acres of marsh in the South Side," was ordered to be recorded.†

The king having conceded large powers to Parliament, some friends of the colony in England wrote advising that we should send over agents to solicit additional legislation on our behalf. "But consulting about it we declined the motion for this consideration, that if we should put ourselves under the protection of the Parliament, we must then be subject to all such laws as they should make, or at least, such as they might impose upon us, in which course, though they should intend our good, yet it might prove very prejudicial to us." But, as a ship of the colony was ready to sail for England early in February, the Court of Assistants voted to send in it agents to act "in furthering the work of reformation of the churches there which was now like to be attempted," to explain why payments of our debts there were not made; also to take measures to procure cotton from the West Indies,

* Winthrop, II., 16.

† Ibid, 18.

or to adopt some other means for a present supply of clothing. Mr. Peters, pastor of the church at Salem, Mr. Weld, of the church at Roxbury, and Mr. Hibbens, of Boston, were appointed the agents, but, owing to some dissatisfaction, and the speedy sailing of the ship, their departure was deferred.* At the annual meeting of the General Court in May, the same agents were appointed, and instructed, among other things, "to give any advice as should be required for the settling the right form of church discipline there."† They embarked on the 3d day of August. The next year after their arrival in England, in the summer of 1642, they procured £500 with which they purchased and sent over linen, woollen, and other useful commodities which were disposed of at a profit, and the money was returned for further supplies.‡ Mr. Hibbens returned in September, and the same month letters were received from members of both houses of Parliament, and from some ministers "who stood for the independency of churches," to Mr. Cotton, of Boston, Mr. Hooker, of Hartford, and Mr. Davenport, of New Haven, inviting them to take part in a synod which had been appointed in England, "to consider and advise about the settling of church government."§ Mr. Hooker liked not the business, Mr. Davenport approved the call, but his church objected to his leaving them, and Mr. Cotton "apprehended strongly a call of God in it." But soon after, letters were received from Mr. Weld and Mr.

* Winthrop, II., 25, 26.

† Ibid, 31.

‡ Ibid, 75.

§ The Westminster Assembly.

Peters advising delay until they should receive intelligence, "so this care came to an end." *

Owing to the distractions in England arising out of the struggle between Parliament and the king, the course of Massachusetts for several years was but little attended to or interfered with. Mr. Bellingham was chosen governor in 1641, and Mr. Winthrop in 1642 and 1643. In 1641 and 1642, important accessions were made to Massachusetts by the submission to its authority of the inhabitants of Strawberry Bank, now Portsmouth, Cocheco, now Dover, and Exeter, in New Hampshire. In 1623, Gorges and Mason and several merchants of London, Bristol, Exeter, Plymouth, Shrewsbury, and Dorchester, organised "the Company of Laconia," for the purpose of establishing colonies on the Piscataqua; and in 1623 sent over two companies of men, one to Dover and the other to Portsmouth. These settlements progressed very slowly, the company making large expenditures for their maintenance. In 1630, the Council for New England granted to Edward Hilton, representing a part of the company, a patent of territory which included Dover; and in 1631 granted to the members of the company in London a patent which included Portsmouth. It was set forth in the patent given to Hilton that he and his associates had, at their own cost, sent servants to and built houses and planted at Dover, and intended further improvements. Gorges and Mason and others were named as patentees in the Portsmouth patent. But after

* Winthrop, II., 76, 77.

large additional expenditures, the proprietors of both places practically abandoned their undertaking. The inhabitants of each place, there being no powers of government given in the patent, combined, and made voluntary organisations for their protection. The danger from this state of affairs was such that the better portion of both communities decided to treat with Massachusetts, with a view of being taken under its protection, especially as Massachusetts claimed both places to be within its jurisdiction. The northern boundary as given in its charter being "three English miles to the northward of the said river called Monomack or Merrimac, or to the northward of any and every part thereof," thence east and west in a parallel of latitude, Massachusetts claimed that, under this description, the line should be drawn from a point three miles north of the most northerly part of the Merrimac, which would include all the then inhabited portion of New Hampshire and Maine.*

* August 1, 1652, John Sherman, sergeant at Watertown, and Jonathan Ince, student at Harvard College, having been appointed for the purpose by Captain Simon Willard and Captain Edward Johnson, commissioners approved by the General Court, took the latitude of the northernmost part of the Merrimac River; and October 19, 1652, reported that, by observation, they found that 'Aquedahian, the name of the head of Merrimac where it issues out of the Lake Winnapusseakit, was forty-three degrees, forty minutes and twelve seconds, besides those minutes which are to be allowed for the three miles north which run into the Lake.'—Mass. Records, III., 288.

October 13, 1652, Jonas Clark and Samuel Andrews, "both well skilled in the mathematics," appointed by the General Court for the purpose, took "an observation at the northerly bounds of our patent upon the sea coast,"

Massachusetts readily entered into negotiations with the inhabitants of these settlements on the subject, which were concluded in 1641, and an instrument was subscribed, in the presence of the General Court, by the agents of the owners of the Piscataqua patents, in which they resigned the jurisdiction of both settlements to Massachusetts, on condition that their inhabitants should enjoy the same liberties as the inhabitants of Massachusetts; and that a court of justice should be established for them, the proprietors reserving to themselves all the property under the patent in Portsmouth, and one-third of that in Dover, and all the improved lands. The General Court consented that the inhabitants of these places should enjoy the same privileges as the rest of the colonies, and have a court with the same powers as those established at Salem and Ipswich; that they should be exempted from public charges, and allowed to send two deputies to the General Court. It was subsequently ordered, that the test of church-membership should be dispensed with, and their freemen be allowed to vote in the town affairs, and their deputies to sit in the General Court, although not church-members. The next year, 1643, Exeter was admitted on the same terms.*

and found that the line of latitude, as determined by the surveyors of the northerly line by the Merrimac, "runs on the northernmost point of an island, as we judge, not above two or three rods above the high water mark. The island is called the Upper Clapboard Island, about a quarter of a mile from the Main, in Gasco Bay, about four or five miles to the northward of Mr. Makworth's house."—Mass. Records, III., 361, 362.

* For a full account see Belknap's Hist. N. H., I., 49-52.

Agawam, now Springfield, on the Connecticut River, was settled, in 1636, by William Pynchon and a company from Roxbury; and was joined with the Connecticut towns, on the supersedure of the commission from Massachusetts. But its territory was plainly within the limits of Massachusetts, under its charter; and in June, 1641, upon petition of Pynchon and his associates, the General Court of Massachusetts asserted jurisdiction over it, and commissioned Pynchon to hold courts, with the powers of a Quarter Court; with juries to consist of six persons, with the right of appeal to the Court of Assistants, "in matters of weight or difficulty."

Connecticut complained to Massachusetts for this proceeding, to which reply was made by the General Court, in which it was declared: "We have thought meet upon these occasions to intimate further unto you that we intend (by God's help) to know the certainty of our limits, to the end that we may neither intrench upon the right of any of our neighbours, nor suffer ourselves and our posterity to be deprived of what rightly belongeth unto us, which we hope will be without offence to any.*"

* Mass. Records, I., 321, 323, 324.

CHAPTER IX.

TOWNS, SCHOOLS, AND SOCIAL CONDITIONS.

THE number of immigrants before 1640 has been estimated at twenty-one thousand and two hundred. They came over in two hundred and ninety-eight ships.

The cost of transportation, as estimated by Johnson, was for swine, goats, sheep, cattle, and horses, twelve thousand pounds ; for food, forty-five thousand pounds ; for "nails, glass, and other ironwork for their meeting-houses and other dwelling-houses" eighteen thousand pounds ; for "arms, powder, bullets, and match, together with their great artillery," twenty-two thousand pounds ; in all ninety-seven thousand pounds. In 1640 there were, including Hampton, seventeen towns in the colony. They were established without any formal acts of incorporation. In 1630 the Court of Assistants passed an order that no person should plant within the limits of the grant without leave from the governor and assistants.* This order was, in substance, confirmed by the General Court in March, 1636;† and under it the Court of Assistants from time to time authorised companies of immigrants, generally from the same neighbourhoods in England, to settle in different designated places. The settlements thus made

* Mass. Records, I., 76.

† Ibid, 167.

were recognised by the General Court as plantations or towns; sometimes without any formal vote, and sometimes by passage of orders that particular settlements be allowed to be plantations or towns. The names plantation and town were used indiscriminately.

In 1634, a committee of nine persons was appointed by the General Court, to establish the bounds between the towns, with authority to settle any in dispute; and, in 1641, an order was passed requiring all towns to settle their boundaries within twelve months after their grants. The General Court exercised, as it has ever since, entire jurisdiction over the towns; imposed duties, and granted and revoked powers, at its pleasure. Within the first few years, it passed orders requiring each town to keep a watch, to provide a place for arms, to receive a constable of its appointment, to provide the inhabitants with arms, to provide standard weights and measures, and, for the towns near Boston, to send each ten men completely armed to attend the General Court of elections; and authorised the towns to control the location of houses. In March, 1636, it adopted the following order:*

“WHEREAS particular towns have many things which concern only themselves, and the ordering of their own affairs, and disposing of businesses in their own towns, it is therefore ordered that the freemen of every town, or the major part of them, shall only (alone) have power to dispose of their own lands and woods, with all the privileges and appurtenances of the said towns, to grant lots, and

* See Mass. Records, I., 125, 319, 120, 135, 138, 148, 166, 168.

make such orders as may concern the well ordering of their own towns, not repugnant to the laws and orders here established by the General Court ; as also to lay mulcts and penalties for the breach of these orders, and to levy and distrain the same, not exceeding the sum of twenty shillings ; also to choose their own particular officers, as constables, surveyors for the highways and the like ; and because much business is like to ensue to the constables of several towns, by reason they are to make distresses, and gather fines, therefore that every town shall have two constables, where there is need, that so their office may not be a burden unto them, and they may attend more carefully upon the discharge of their office, for which they shall be liable to give their accounts to this court when they shall be called thereunto."*

This was the grand foundation of the town system of Massachusetts, which system, while the population of the several towns was small, and the voters were fined for non-attendance at town meetings, as was the custom, proved to be the most perfect system of local self-government ever devised or administered.

The town meetings were held in the meeting-houses. Although all the freemen or voters were members of the Church, yet the two organisations, civil and religious, were kept entirely independent of each other.

The primitive meeting-houses were small and rudely constructed. The one first built in Dedham, which was settled in 1636, is described as thirty-six feet long, twenty

* Mass. Records, I., 172.

feet wide, and twelve feet stud, and the roof thatched with long grass. The first meeting-houses had no pews; the men were "seated" on one side and the women on the other, probably on benches without backs.

The children were kept in order by the tything men. A committee was appointed by each church, annually, to seat the members. They were seated in the order of age, rank, and property. In a short time, pews were constructed for the elders, deacons, and magistrates; and individuals, upon request, were permitted to construct pews in the gallery for their separate occupation.

The houses of the people in the first period were built principally of logs, with thatched roofs. They were of one story, with lofts, or scaffolds, extending over a large portion of the lower room or rooms, which were reached by stairs or ladders. This was the sleeping apartment of the younger members of the family, sometimes divided into separate rooms by slight partitions. The ground floor was divided by partitions, making one large kitchen and living-room, and one or more sleeping-rooms. The floor was of clay or split logs. The fireplace was made of rough stones, and the chimneys of boards or short sticks crossing each other, and plastered inside with clay.

In Dedham, in 1664, ninety-five of the original log-houses with the thatched roofs were standing near together. In Waterbury, Connecticut, in 1678, forty houses built of logs were standing, "at least 18 feet long and 16 feet wide and 9 feet stud. A good chimney gave the domestic hearth and made them comfortable."

In the first ten years, lumber was sawed by hand in saw-pits, and some sawmills were constructed, but not sufficient to supply the necessity for frame houses.

Lechford gives an account of a house built in Boston, in 1640, for William Rix, a weaver. "It was 16 foot long by 14 foot wide, with a chamber floor finished summer, and joists finished, a cellar floor with joists finished, the roof and walls clapboarded on the outside, the chimney framed without daubing, to be done with hewed timber." *

After 1650, "the majority of the farmers and labourers, the common people of this period, had plain rectangular houses of one story, with two rooms, a kitchen or living room, and a family bedroom, with one or more beds, and a trundle-bed." †

"The better class of houses in our second period were two-storied, the upper usually juttet about one foot over the lower story. Sometimes the roof was gambrelled, and often it sloped through the upper story, making the rear line lower than the front. The most imposing had one or more gables on the front, which formed attic chambers.

"The frame timbers were heavy and of oak. The windows were two and a half to three feet long and one and a half to two feet wide. The glass was in diamond panes of three or four inches, cased in lead. These windows were sometimes whole, and sometimes divided in halves, and swinging outwards on hinges. A common

* Weeden, I., 212.

† Ibid, 214.

arrangement of the first floor was in a 'great room,' *i. e.*, company room, and a kitchen, each often twenty feet square, with a bedroom and a large milk and cheese pantry. Closets clustered around the chimney on either floor, some of them arranged for hiding-places." "Bricks were laid against the inner partition or wooden wall, and covered with clay. Boards were placed on the outside, first called 'clay boards,' then corrupted into clapboards. Lime mortar was but little used, and was made of shells. Generally the inner finish was a 'daubing' of clay, sometimes mixed with straw." *

The kitchen of this period was large, with an immense fireplace with its crane, jack, spit, and pothooks. A Dutch oven was used for baking, covered with the embers, and later, potatoes were roasted in the hot ashes. Seats were placed in the chimney-corners for the children, and a high-back settle for the elder people in front of the fire. Dipped candles and slivers of pitch pine, or candlewood, were used for lighting in the winter evenings.

The principal article of food in the earliest days was Indian corn. It was very productive, and was prepared in various ways. The Indians boiled it until it became tender, and ate it with fish or venison. They also parched it in hot ashes, then sifted it and pounded it into fine meal in mortars, and ate it dry or mixed with water. The early settlers prepared it in the same way, made dough and baked it. They also soaked the corn, then pounded

* Weeden, I., 283, 284.

it in a mortar, boiled it, and ate it with milk, or butter and sugar ; it was called samp. Indian or hasty pudding was made by boiling or baking the meal, and was eaten with milk and butter, and with molasses, as soon as this was obtained from the West Indies. Brown bread was made from a mixture of two parts of corn-meal with one part of rye. Succotash was made of beans boiled with corn in the milk. Broth was made of the liquor of boiled salt meat and pork, mixed with meal. Bean porridge was made of beans boiled for a long time with salt beef or pork. Besides corn, in the early days, pork, poultry, fish, and wild game furnished food. Deer, wild turkeys, and pigeons were abundant. After a few years, a supply of meat from cattle was obtained.

Home-brewed beer was universally used. It was made not only from barley, but from Indian corn. The corn was sprouted, then washed and dried in a kiln, which made malt. Beer was also made from Indian corn bread, which was cut up and mashed, and used as malt. After 1650, cider was used more or less in place of beer.

Broth, bean porridge, and hasty pudding and milk, furnished the usual evening and morning meal, and hasty pudding and milk, boiled salt pork, and brown bread and cheese, the dinner. Neither coffee nor tea was used in that period.

Economy and simplicity in dress were enjoined upon all. In 1639, the General Court declaring, "whereas there is much complaint of the excessive wearing of lace and other superfluities, tending to little use or benefit, but to

the nourishing of pride and exhausting of men's estates, and also of evil example to others," passed an order forbidding their use.*

All ceremonies of the Church of England of "human invention" were discarded. The liturgy and formal prayers were given up in public worship; and thanksgiving and fast, by proclamation, were substituted for Saints' days and the periodical feasts and fasts of the English Church; and laws, with penalties, were passed, forbidding the observance of "Christmas and the like." Sewall, in his diary, records, on the return of each Christmas day, with great satisfaction, the fact that the shops were open, and loads of wood brought into town as on other days.

Marriages were solemnised by the magistrates, instead of ministers; the oath was administered with the raising of the hand, instead of by kissing the book, and the months and days of the week were designated by numbers, in the place of the names adopted from the Romish Church.

In October, 1636, the General Court voted £400 towards "a school or college," one-half to be paid the next year, and the rest when the work was finished; the location and character of the buildings to be determined at the next session of the court.† At a session of the court, in November, 1637, it was ordered, that the college be located at Newtown, and a committee was appointed to oversee the work.‡ The next spring, the name of the town was changed to Cambridge, and the same year, Mr. John Harvard, a minister of Cambridge, died, leaving one-half of his

* Mass. Records, I., 274.

† Ibid, 183.

‡ Ibid, 208, 217.

estate, valued, according to Hubbard, at £700, and the whole of his library, for the endowment of the college; and in March, 1639, it was ordered that it be called Harvard College.* The college was opened for students in 1638, and in 1642 nine students, comprising the first class, were graduated. The theses of this class are preserved.

Schools were also established at an early period in most of the towns; and in November, 1647, the following order was passed by the General Court:

“It being one chief object of the old deluder, Satan, to keep men from the knowledge of the Scriptures, as in former times by keeping them in an unknown tongue, so in these latter times by persuading from the use of tongues, that so at least the true sense and meaning of the original might be clouded by false glosses of saint-seeming deceivers, that learning may not be buried in the grave of our fathers in the Church and Commonwealth, the Lord assisting our endeavours, —

“It is therefore ordered, that every township in this jurisdiction, after the Lord hath increased them to the number of fifty householders, shall then forthwith appoint one within their town to teach all such children as shall resort to him, to write and read, whose wages shall be paid either by the parents or masters of such children, or by the inhabitants in general, by way of supply, as the major part of those that order the prudentials of the town shall appoint; provided, those that send their children be not oppressed by paying much more than they can have them

* Mass. Records, I., 253.

taught for in other towns ; and it is further ordered, that where any town shall increase to the number of one hundred families or householders, they shall set up a grammar school, the master thereof being able to instruct youth so far as they may be fitted for the university, provided, that if any town neglect the performance hereof above one year, that every such town shall pay £5 to the next school, till they shall perform this order." *

* Mass. Records, II., 203.

CHAPTER X.

THE BODY OF LIBERTIES.— COURTS AND LAWS.

FOR the first eleven years, the Court of Assistants exercised, without limitation, the entire judicial powers of the colony, excepting those for a part of the time delegated to the inferior quarter courts. In this period but few laws or orders were passed. When complaints were made, the court, upon a hearing, determined whether the conduct of the accused had been such as, in their opinion, to deserve punishment, and if it had been, then what punishment should be inflicted, with little regard to English precedents. There was no defined criminal code; and what constituted a crime, and the measure of its punishment, were within the discretion of the judges for the time being, in each case; and in determining offences they had special regard to the peculiar circumstances, and the purposes of the people in establishing their Commonwealth; and looking to the Bible for guidance, they were more disposed to punish offenders for disregarding the ordinances of God and the rules of the churches, than for transgressing the laws of society.

The people soon became alarmed at the extent of personal discretion exercised by the magistrates, and felt that their liberties could not be safe under such an administra-

tion of law. The deputies, who represented the commons, as the freemen were styled, demanded a code of written laws, and in 1635, according to Winthrop, "the deputies, having conceived great danger to our state in regard that our magistrates, for want of positive laws, in many cases, might proceed according to their discretions, it was agreed that some men should be appointed to frame a body of grounds of laws, in resemblance to a *magna charta*, which, being allowed by some of the ministers and the General Court, should be received for fundamental laws." Accordingly the governor and others were appointed by the General Court for the purpose.* But it does not appear that they performed the duty assigned them, and in 1636, another committee, composed of magistrates and ministers, was appointed.† The records do not show that this committee acted, but according to Winthrop, Mr. Cotton of the committee reported "a model of Moses his judicials, compiled in an exact method, which was taken into further consideration till the next General Court."‡ They did not prove satisfactory to the people, and were not adopted. In March, 1638, the General Court ordered that the freemen of the several towns should assemble "and collect the heads of such necessary and fundamental laws as may be suitable to the times and places where God by His Providence hath cast us;" and report the same, in writing, to the governor before the fifth day of June, when a committee of the magistrates and ministers, of which Rev. Nathaniel Ward

* Winthrop, I., 160. † Mass. Records, I., 174. ‡ Winthrop, I., 202.

was a member, should make a compendious abridgment of the same for the consideration of the General Court in the autumn.* The next action upon the subject was in 1639, when another committee was directed to peruse all the "models" which had been or should be presented,— "draw them up into one body," and send copies to the several towns.† Winthrop commented on the proceedings as follows: "The people had long desired a body of laws, and thought their condition very unsafe, while so much power rested in the discretion of magistrates. Divers attempts had been made at former courts, and the matter referred to some of the magistrates and some of the elders; but still it came to no effect; for, being committed to the care of many, whatsoever was done by some was still disliked or neglected by others. At last, it was referred to Mr. Cotton and Mr. Nathaniel Ward, etc., and each of them framed a model, which were presented to this General Court and by them committed to the governor and deputy and some others, to consider of and so prepare it for the court in the third month next. Two great reasons there were, which caused most of the magistrates and some of the elders not to be very forward in this matter. One was, want of sufficient experience of the nature and disposition of the people, considered with the condition of the country and other circumstances, which made them conceive that such laws would be fittest for us, which should arise *pro re nata*, upon occasions, etc., and so the laws of England and other States grew; and

* Mass. Records, I., 222.

† Ibid, 279.

therefore the fundamental laws of England are called customs, *consuetudines*. 2. For that it would professedly transgress the limits of our charter, which provides, we shall make no laws repugnant to the laws of England, and that we were assured we must do. But to raise up laws by practice and custom had been no transgression, as in our church discipline; and in matters of marriage, to make a law that marriages should not be solemnised by ministers, is repugnant to the laws of England; but to bring it to a custom by practice for the magistrates to perform it, is no law made repugnant, etc. At length (to satisfy the people) it proceeded and the two models were digested with divers alterations and additions, and abbreviated, and sent to every town, to be considered of, first by the magistrates and elders, and then to be published by the constables to all the people, that if any man should think fit, that anything therein ought to be altered, he might acquaint some of the deputies therewith against the next court." *

In May, 1640, another order was passed in regard to the "Breviate of laws" which had been sent to the towns, in which the desire was expressed, "That they will endeavour to ripen their thoughts and counsels about the same by the General Court in the next 8th month." †

In October, 1641, Mr. Ward was requested to furnish a copy of the liberties and of the capital laws, and it was ordered that nineteen copies be transcribed, to be paid for at ten shillings a copy, by the constables of the several

* Winthrop, I., 322, 323.

† Mass. Records, I., 292.

towns, and in December, "the body of laws formerly sent forth among the freemen, etc., was voted to stand in force, etc."* It was further ordered that these laws "be audibly read and deliberately weighed at every General Court that shall be held, within three years next ensuing, and such of them as shall not be altered or repealed they shall stand so ratified."† In March, 1644, a committee was appointed to consider the Body of Liberties, and report what should be repealed or allowed.‡ There is no record of any report having been made by the committee. It is plain that the great delay in the preparation and adoption of this instrument was caused by the magistrates and ministers who desired to create a common law for the colony based upon customs arising out of, and adapted to, the peculiar condition and circumstances of the people; and who were apprehensive that the adoption of a rigid code of written laws might prove a hindrance to the growth of such a system; and, besides, that any code of written laws, which would be approved by the people, must necessarily, in some particulars, be repugnant to the laws of England, which, by their charter, they were forbidden to make.

The Body of Liberties, as adopted, was prepared by Rev. Nathaniel Ward, who had been a minister in Ipswich for about two years. He had been educated to the law, and practised in England, before he studied for the ministry. He was a man of great ability, and his

* Mass. Records, I., 340, 344, 346. † Whitmore's Colonial Laws, 1889, 61.

‡ Mass. Records, II., 61.

legal training admirably fitted him for the performance of this important duty. The code comprised one hundred laws, civil and criminal. The civil laws it contained were in advance of the laws of England at the time; and were in substance adopted in every subsequent codification of the laws of the colony; and some of them are in force at the present time; and others form the basis of existing laws. The criminal laws were taken principally from the Mosaic code, and although many of them at the present day seem harsh and cruel, yet, as a whole, they were very much milder than the criminal laws of England at the time, and the number of capital offences was greatly reduced.* The Body of Liberties contained the following brief bill of rights: "No man's life shall be taken away, no man's honour or good name shall be stained, no man's person shall be arrested, restrained, banished, dismembered, nor any ways punished, no man shall be deprived of his wife or children, no man's goods or estate shall be taken away from him, nor any way damaged under colour of law, or countenance of authority, unless it be by virtue or equity of some express law of the country warranting the same, established by a General Court and sufficiently published, or in case of the defect of a law in any particular case by the word of God. And in capital cases, or in cases concerning dismembering or banishment, according to that word to be judged by the General Court." †

* See page 97, *ante*.

† For the full text of the Body of Liberties see Whitmore's Colonial Laws, Ed. 1889.

The instrument further declared, among other things, that persons, whether citizens or foreigners, shall "enjoy the same justice and law" within the jurisdiction, without partiality or delay; that no man shall be compelled to go out of the limits of the Commonwealth in any offensive war, but shall be upon "such vindictive and defensive wars" as shall be undertaken by the council with the consent of, or authority derived from the General Court; that no monopolies shall be granted or allowed, except for new inventions that are profitable to the country, and to them only for a short time; that all lands and inheritances shall be free from all fines, license for alienations, etc., and from all escheats and forfeitures upon the death of parents or other ancestors; that any person being an inhabitant or a foreigner, a freeman or otherwise, might attend any public court, council or town meeting, and move any proper question, or present any proper motion, complaint, petition, bill, or information of which the meeting had cognisance, if done in convenient time, due order, and in a respectful manner; that all conveyances in fraud of creditors shall be invalid; that "every inhabitant that is an householder shall have free fishing and fowling in any great ponds and bays, coves and rivers, so far as the sea ebbs and flows within the precincts of the town where they dwell, unless the freemen of the same town or the General Court have otherwise appropriated them, provided that this shall not be extended to give leave to any man to come upon other's propriety without their leave;" that all persons charged with crime, except

capital offences and contempt of court, be admitted to bail with sufficient sureties ; that the court might fine such as instituted malicious prosecutions ; that legal proceedings should not be abated "upon any kind of circumstantial errors or mistakes, if the persons and cause be rightly understood and intended by the court ;" that any person who considers himself incompetent to plead his own cause in court might employ any man acceptable to the court, to help him, "provided he give him no fee or reward for his pains;" that the plaintiff in any action might become nonsuit, before verdict, but should pay all costs, upon which, he might bring his action anew ; that trials, civil or criminal, might, by consent of both parties, be tried by either a judge or a jury ; that either party in a civil suit, and the defendant in a criminal prosecution, might challenge any of the jury, which if found just and reasonable, upon a hearing by the bench or the jury, at the election of the challenger, "it shall be allowed him, and *tales de circum stantibus* * impanelled in their room ;" that when the evidence on a trial should be "obscure or defective," the jury might return a *non liquet* (it is not clear), or a special verdict ; that in the special verdict they should present such facts as they should find, leaving it to the court to render judgment, and that if the court should dissent from the verdict of a jury, the case

* When, upon the impanelling of a jury for the trial of a cause, or upon challenge, it appears that there are not jurors present sufficient to fill the panel, the court may direct an officer to supply the deficiency from among the "by-standers."

should be referred to the General Court ; that any person might appeal from the judgment of an inferior court to the Court of Assistants, and make complaint to the General Court, "of any injustice done him in any Court of Assistants, or other ;" that any conveyance or contract procured by duress should be void ; that a person indicted should be entitled to a trial at the next term of the court ; that "no man shall be beaten with above forty stripes, nor shall any true gentleman, nor any man equal to a gentleman be punished with whipping, unless his crime be very shameful, and his course of life vicious and profligate ;" "that for bodily punishments we allow amongst us none that are inhumane, barbarous or cruel ;" that the "civil authority hath power and liberty to deal with any church-member in a way of civil justice, notwithstanding any church relation, office, or interest ;" that "no church censure shall degrade or depose any man from any civil dignity, office, or authority he shall have in the Commonwealth ;" that deputies for a town may be elected from any part of the Commonwealth, to hold their place "from court to court, or at the most but for one year, that the country may have an annual liberty to do in that case what is most behooful for the best welfare thereof ;" that "whenever any jury of trials or jurors are not clear in their judgments or consciences concerning any cause wherein they are to give their verdict, they shall have liberty in open court to advise with any man they think fit to resolve or direct them, before they give in their verdict ;" "that every married woman shall be free from

bodily correction or stripes by her husband, unless it be in his own defence upon her assault;" that when a parent dies intestate, "the elder son shall have a double portion of his whole estate, real and personal," and if he leaves no son, his daughters shall inherit in equal shares; that "if any people of other nations, professing the true Christian religion, shall flee to us from the tyranny or oppression of their persecutors, or from famine, wars, or the like necessary and compulsory cause, they shall be entertained and succoured amongst us, according to that power and prudence God shall give us;" that there shall be no slavery except of captives taken in just wars, "and such strangers as willingly sell themselves or are sold to us, and these shall have all the liberties and Christian usages which the law of God established in Israel concerning such persons doth morally require," and that "no man shall exercise any tyranny or cruelty towards any brute creature that is usually kept for man's use."

The Body of Liberties contained twelve capital laws; one was for treason, three for murder, one for witchcraft, and three for blasphemy and the like.

The laws relating to the churches will be considered in another connection.

The Mosaic code was their guide in framing laws; and the capital offences were supplemented by marginal reference to book, chapter, and verse in the Bible, from which their punishments were derived. The true intent of the Body of Liberties is expressed as follows, in the 96th article: "However these above specified rites, freedoms,

immunities, authorities and privileges, both civil and ecclesiastical, are expressed only under the name and title of Liberties, and not in the exact form of laws or statutes, yet we do with one consent fully authorise, and earnestly intreat all that are and shall be in authority to consider them as laws, and not to fail to inflict condign and proportionable punishment upon every man impartially, that shall infringe or violate any of them."

The deputies had, from time to time, questioned the right of the governor and assistants to exercise judicial powers; and in 1644, the General Court sent for the elders, "to reconcile the differences between the magistrates and deputies" on the subject.* In answer to questions propounded by the magistrates and by the deputies, the elders replied in substance, that by the patent the governor and assistants were to be elected by the freemen, and when elected were the standing council of the Commonwealth, in the vacancy of the General Court; and as such had power to act in all cases, in accordance with the patent and the laws; and that in emergencies for which there

* By the practice in the colony, the General Court, from time to time, propounded questions to the ministers, which they answered in writing. The proceeding was similar to that under a provision of our constitution, requiring the justices of the Supreme Judicial Court to give to either branch of the Legislature, or to the governor and council, upon request, opinions upon important questions of law, and upon solemn occasions. The opinions given by the ministers, which have been preserved, are very able, and will, in logic and sound reasoning, bear a not unfavourable comparison with opinions of the justices, given under this provision of our constitution.

was no express law they were to be guided by the word of God, until the General Court adopted rules for the same ; that the ordinary administration of justice was given to the governor and assistants ; and that the freemen, or deputies, when the power was delegated to them by the freemen, had only the power, in connection with the governor and assistants, at a General Court to impeach, for cause, any officers, and to act in any case of appeal to the General Court authorised by law ; and in reply to questions by the deputies, whether it was right to "prescribe certain penalties to offences which may probably admit variable degrees of guilt," and whether a judge must pronounce sentence as prescribed by a positive law if the evidence proved a crime of greater or less magnitude than that stated in the law, the elders replied that certain fixed penalties should be prescribed for capital offences, and for some other high crimes, as prescribed by Scripture, but that in other offences the "variable circumstances" were to be considered, and laws made, distinguishing the different degrees of crime ; and that under circumstances "which concern only the person of the offender," as whether it was the first offence, or whether he was enticed, or whether it was done thoughtlessly or designedly, in such cases "the penalty should be expressed with a latitude, whereof the lowest degree to be expressed (suppose five shillings, or, as the case may be, five stripes), and the highest degree twenty shillings, or stripes, more or less ; within which compass or latitude it may be free to a magistrate to aggravate or mitigate the penalty, etc. Yet

even here, also, care would be taken that a magistrate attend, in the sentence, as much as may be, to a certain rule in these circumstances, lest some persons, whose sins be alike circumstanced with others, if their punishment be not equal, etc., may think themselves more unequally dealt withal than are others ; but that no judge should sentence to more than the prescribed penalty ; but that where the law may seem to the conscience of the judge to inflict a greater penalty than the offence deserveth, it is his part to suspend his sentence, till, by conference with the law-givers, he finds liberty, either to inflict the sentence or to mitigate it."

To the question by the deputies, "whether the magistratical power be not given by the patent to the people or General Court, and by them to the governor, etc., it was replied, that magistratical power is given to the governor, etc., by the patent. To the people is given, by the same patent, to design the persons to those places of government ; and to the General Court power is given to make laws, as the rules of their administration."

These opinions were accepted by a vote of the General Court, "and most of the deputies were now well satisfied concerning the authority of the magistrates, etc." *

With the increase of the population of the colony, came a necessity for additional tribunals of justice ; and in March, 1636, four local courts, each to hold quarter annual sessions, were established by the General Court ; one to be held in Ipswich for Ipswich and Newbury ; one

* Winthrop, II., 204-209.

Mass. Records, II., 90-96.

in Salem for Salem and Saugus, now Lynn ; one in Newtown, now Cambridge, for Newtown, Charlestown, Concord, Medford, and Watertown ; and one in Boston, for Boston, Roxbury, Dorchester, Weymouth, and Hingham. They were known as quarter courts.* These courts were to be held by some magistrates residing in or near the said town, and such other persons, as associates, as the General Court should appoint from a list of persons nominated by the several towns for the purpose. They were known as commissioners. The General Court was to appoint a magistrate specially for each court, but any other magistrates could attend and take part. The court was to consist of five members, of whom one at least should be a magistrate, and three (one being a magistrate) should constitute a quorum. To these courts was given exclusive jurisdiction in all civil cases whereof the debt or damage did not exceed ten shillings, and in all criminal cases not concerning life, member, or banishment. An appeal was given to the Court of Assistants, or the Great Quarter Court as it was styled in the law.† The first session of this court was held at Salem, June 27, 1636.‡

In 1641, the General Court established four quarter annual courts in Essex County ; two to be held at Ipswich, and two at Salem, to be presided over by magistrates and

* Mass. Records, I., 169.

† Ibid, 169, 175.

‡ The records of this court are in the clerk's office in the Court House, Salem. The first session was held by "Cp. John Endicott, Esqr., Cpt. Nath. Turner, Mr. Townsend Bishopp, Mr. Tho: Scrugg."

commissioners, substantially as under the law of 1636 ; but after 1650 the commissioners were elected by the people of the several counties. Provision was made for the session of a grand jury once a year, in each place. To these courts was given the jurisdiction, civil and criminal, before exercised by the Court of Assistants, except on the criminal side, trials for life, limb, or banishment, which were reserved to the Court of Assistants ; and in civil cases the Court of Assistants reserved concurrent jurisdiction, where the damages exceeded one hundred pounds. In the same law, Salisbury and Hampton were placed under the jurisdiction of the Ipswich court. A right of appeal to the Court of Assistants was also given, in all cases. These courts had probate jurisdiction, and the clerks performed the duties of register.* They also laid out highways, licensed taverns, and were charged to see that there was an able ministry, and that it was well supported ; and in 1664, were authorised to admit freemen. The judges of these courts were also given equity jurisdiction by an act of 1685, a short time before the charter was declared forfeited. From an early period, assistants or magistrates were invested with substantially the powers of a justice of the peace, and had jurisdiction in civil cases, except where the title to land was in issue, and the debt did not exceed twenty shillings, afterwards increased to forty shillings ; † but no justices of the peace, *eo nomine*, were appointed in the colony, except the governor and

* Mass. Records, I., 325.

† Ibid, 89, 239. Mass. Records, II., 279.

deputy governor for the time being, Sir Richard Saltonstall, Mr. Johnson, Mr. Endicott, and Mr. Ludlow of the assistants, who were appointed in 1630.*

By an act passed in 1638, the General Court was, from time to time, to appoint, in each town in which there should be no resident magistrate, three persons as commissioners of small causes, two of them to constitute a quorum. By a subsequent act, these commissioners were to be approved by the several county courts. They were given, by different acts, substantially the powers of single magistrates in trials of causes.† Selectmen of towns in which there was a magistrate were empowered to try civil cases under forty shillings, in which the magistrate had a personal interest.‡ The General Court appointed, annually, in each town, a clerk of the writs, who was authorised to grant attachments and summons, replevin writs, take replevin bonds and issue summons for witnesses.§

The governor or deputy governor, and two magistrates, were authorised, by an act passed in 1639, to try cases in which a stranger or non-resident was a party, and to transmit their records of the same to a court having jurisdiction, there to be entered and judgment rendered. It was intended to relieve such parties from the delays incident to a trial in the ordinary course of justice.|| This law was in force but a short time.

* Mass. Records, I., 74.

§ Ibid, 344.

† Ibid, 239.

|| Ibid, 264.

‡ Mass. Records, II., 162.

Upon the completion of the judicial system of the colony, the jurisdictions of the several courts were as follows :

The General Court retained all legislative powers and limited appellate authority from the Court of Assistants, and certain supervisory powers over all the courts.

The Court of Assistants had exclusive jurisdiction in all criminal cases extending "to life, limb, or banishment," concurrent jurisdiction with the county courts in all civil causes in which the damages were more than one hundred pounds, and appellate jurisdiction from the county courts. It also, by an act passed in 1674, was given admiralty jurisdiction. It had substantially the same powers afterwards conferred on the Superior Court of the Province and the Supreme Judicial Court of the State. But, upon appeals from a county court, the testimony given in that court, and no other, was allowed. The same rule was applied upon appeals from the Court of Assistants to the General Court. The sessions of this court were all held in Boston.

The county or inferior quarter courts had jurisdiction in all cases and matters not reserved to the Court of Assistants, or conferred upon single magistrates and commissioners of small causes, including matters of probate. They had essentially the powers, except in matters of probate, which were afterwards conferred on the Court of Common Pleas and General Court of Sessions of the Province and of the State ; and now upon the Superior Court and boards of county commissioners. Single mag-

istrates, and commissioners of small causes, or town courts, were invested with substantially the powers of a justice of the peace.

The writs, declarations, complaints, indictments, pleadings, and course of proceedings in the courts were simple, brief, and informal. For the first twenty years the testimony on a trial was written down by the clerk of the court, and became a part of the records in a case. In 1647 an order was passed, that any magistrate or commissioner appointed for the purpose might take, in writing, the testimony of any person of fourteen years of age or upwards, "of sound reputation," in any civil or criminal case, and keep it until the court convened, or deliver it to the recorder, public notary, or clerk of the writs, to be recorded, that "so nothing may be altered in it;" provided, that if the witness resided within ten miles of the court, it should not be used on the trial, unless the witness was present to be further examined, and that in all capital cases the witnesses must be present; and in 1650, on account of the inconvenience of "taking verbal testimony in courts, by reason of many imperitances in their relations, so that the clarks cannot well make a perfect record thereof," it was ordered, that henceforth all testimony be given in writing, to be attested in court if the witness lived within ten miles of it, and before a magistrate, if the witness lived at a longer distance. These papers, or affidavits, went to the jury, who returned them into court with their verdict. From this it appears that witnesses were not cross-examined in court, and that the sole duty

to be performed by a party or his assistant upon trial was to argue his case.

In 1639, it was ordered that, "henceforward every judgment, with all the evidence, be recorded in a book, to be kept to posterity;" also, that records be kept of all wills, administrations, and inventories; and of marriages, births, and deaths.*

It was the practice for a person intending to bring a civil action to first consult privately with the magistrates before whom it was to be tried, and state to them his case. Mr. Ward, in a sermon before the General Court, in 1641, censured this practice; and the subject was discussed by the members. Some of the deputies, agreeing with Mr. Ward, proposed an order on the subject, forbidding the practice. This was opposed by some of the assistants, and their reasons given were, that if the practice should be abandoned "we must then provide lawyers to direct men in their causes;" that the magistrates should be informed of the case before granting process, as in criminal cases, "that they might either divert the suit, if the cause be unjust, or direct it in a right course if it be good;" that by this practice "the magistrate hath opportunity to end many differences in a friendly way, without charge to the parties or trouble to the court;" that it abbreviates the work of and aids the court in determining the merits of the case, "no advocate being allowed, and the parties being not able, for the most part, to open the cause fully and clearly, especially in public;" and that the answer to

* Mass. Records, I., 275, 276.

the objection of the danger that the magistrate might be prejudiced by such *ex parte* hearing, was, that if the practice be a useful one, "it must not be laid aside for the temptations which are incident to it, for in the least duties men were exposed to great temptations.*" It does not appear that any action was taken on the proposed order.

When upon a trial there was insufficient evidence to convict, juries were authorised to find that there were strong grounds of suspicion; and upon this finding the court would give sentence for what it appeared to them, on the trial, the defendant was guilty of, though not charged in the indictment, or found by the jury. Hutchinson states that he has "met with instances of one of the court standing up after a verdict of the petit jury of not guilty in a capital trial, and charging the prisoner, in open court, with burglary and theft, which were not capital, and a new trial ordered upon such charge. †

If the court disapproved of the verdict of a jury it could refuse to accept it; in which event the cause was carried to the next Court of Assistants, or to the General

* Winthrop, II., 35, 36.

† In 1681, Governor Hinckley, of Plymouth, wrote to Judge Stoughton for advice in a case which had occurred at Plymouth. Judge Stoughton replied: "The testimony you mention against the prisoner I think is clear, and sufficient to convict him; but, in case your jury should not be of that opinion, then, if you hold yourself strictly bound by the laws of England, no other verdict but not guilty can be brought in. But, according to our practice, in this jurisdiction, we should punish him with some grievous punishment, according to the demerit of his crime, though not found capital." Hutchinson, I., 401, n.

Court, as the case might be, for determination. On the trial of Anne Hibbins for witchcraft, in 1656, the jury found the defendant guilty; but the Court of Assistants, before whom she was tried, refused to accept the verdict; whereupon the case was carried to the General Court, which sustained the verdict of the jury, and she was convicted and executed.* This was the law until 1672, when the General Court enacted that the verdict of a jury, the court having upon the trial given full explanation of the law, should be accepted, and judgment rendered upon it; and that if a party felt aggrieved by the verdict he might seek his remedy by attainting the jury.† This was modified in 1682 by an act requiring that the party seeking this redress should specify in writing the grounds of his attain, and that, if he failed in his action, he should be fined ten pounds, and pay forty shillings to each juror, and be subject to an action of slander by the jurors he had charged with corruption.‡

The actions in civil cases were replevin, debt, trespass, and case. Case was the most common form, and was employed in suits to recover lands as well as for damages for breach of contract.

In order to expedite proceedings in court, a law was passed in 1656, authorising the fining of a party twenty

* Mass. Records, IV., part I., 269.

† Mass. Records, IV., part II., 508. Under this law, a person aggrieved by the verdict of a jury could bring a writ of attain against its members, charging that they had rendered a false verdict.

‡ Mass. Records, V., 449.

shillings an hour for the time occupied in his plea beyond the time of one hour. *

Notwithstanding the fact that the General Court made no recognition of the common law in its enactments, it was not entirely regardless of its value, and in 1647 ordered the importation from England of two copies each of the following books: Sir Edward Coke on Littleton, Book of Entries, Sir Edward Coke on Magna Charta, The New Terms of the Law, Dalton's Justice of the Peace, Sir Edward Coke's Reports.†

During the colonial period of fifty-five years, the only men of the assistants or magistrates who had been educated in the law were Winthrop, Bellingham, Humphrey, and probably Pelham and Bradstreet. But they were desirous of establishing a Bible Commonwealth, and had as little regard for the common law, or legal precedents, as any of their associates; and during this entire period the only person of legal education who practised in the courts was Thomas Lechford, who, after a practice of two years, for tampering with a jury, was forbidden to practise. He soon after returned to England, and in 1642 published a satirical book, entitled "Plain dealing, or News from New England." But in this period there were men who practised as attorneys. They were ignorant of the principles of the law, were bound by no oaths, and were irresponsible to the courts. It is not unreasonable to suppose that, as a class, they did not have the confidence of the people. The names are given of five persons who

* Washburn, *Jud. Hist. Mass.*, 52.

† *Mass. Records*, II., 212.

acted in this capacity. Three were, or had been, merchants, one an apothecary, and the other a tailor. The conduct of this class of practitioners was such as called for a law against barratry, which was passed in 1641; and in 1663 the General Court passed an act excluding "usual and common attorneys" from a seat in their body. As legal proceedings were conducted with but little regard to rules or precedents, there was but little occasion or opportunity for attorneys learned in the law.

CHAPTER XI.

THE CONFEDERATION.

WITH the growth of the colonies the necessity for an organised system of coöperation for defensive purposes was felt. Plymouth, in its troubles with the French on the Penobscot, had called upon Massachusetts for assistance, which was declined, except upon promise of reimbursement by Plymouth ; Connecticut, in the war with the Pequots, had called upon Massachusetts and Plymouth for aid, which was tardily rendered ; and New Haven, being a remote frontier settlement, felt the necessity of support from the other colonies in the event of attacks from the Indians or the Dutch.

At the close of the Pequot war, some magistrates and ministers of Connecticut held an informal conference with the Massachusetts authorities at Boston, with a view to confederation. Notice of the meeting was given to Plymouth, but too late for it to take part. In 1638, Massachusetts proposed a plan for union, which was not acceptable to Connecticut. Massachusetts claimed that in the proposed confederation the vote of a majority of the commissioners from the several colonies should be binding upon all. To this Connecticut objected, and claimed that final action should be had only when the

commissioners were unanimous, and that, in the event of differences of opinion, the subject should be referred back to the legislatures of the several colonies for final decision.

But in 1642, Connecticut, being apprehensive of trouble with the Dutch, took active measures for the establishment of a confederacy, and Plymouth, which had hesitated, became convinced of the necessity for it, and in May, 1643, commissioners from Plymouth, Massachusetts, Connecticut, Saybrook, and New Haven, met at Boston.

The commissioners from Plymouth were Mr. Winslow and Mr. Collier; from Massachusetts, the governor, Mr. Winthrop, Mr. Dudley, and Mr. Bradstreet of the assistants, and Captain Gibbons, Mr. Tyng, and Mr. Hathorne of the deputies; Mr. Haynes and Mr. Hopkins represented Connecticut; Mr. Fenwick, Saybrook, and Mr. Eaton and Mr. Grigson represented New Haven. The settlements in Maine by Gorges, in Providence under Roger Williams, and at Aquedneck, now Newport, and Portsmouth in Rhode Island, composed largely of the adherents of Mrs. Hutchinson, on account of jealousies and disagreements in religious matters, were not invited to the conference. Subsequently, the inhabitants of Aquedneck petitioned for leave to join the confederacy, but were refused, unless they would put themselves under the jurisdiction of Plymouth or Massachusetts.

Winthrop says, "These coming to consultation encountered some difficulties, but being all desirous of union and studious of peace, they readily yielded each to the other in such things as tended to common utility, etc., so as in

some two or three meetings they lovingly accorded upon these ensuing articles, which being allowed by our court and signed by all the commissioners, were sent to be also ratified by the General Courts of other jurisdictions ; only Plymouth commissioners having power only to treat, but not to determine, deferred the signing of them till they came home, but soon after they were ratified by their General Court also." *

In the words of Doyle, "The real hindrance to union was the inequality which could not fail to exist between the partners. In population, in wealth, in learning, in the security of her possessions, in the friendship of those who were now rising into power in England, Massachusetts towered over the other colonies. The actual number of the population in the various colonies may be a matter of doubt, but their relative resources are made certain by the first levy under the Articles of Confederation. That levy was proportioned to the inhabitants of each colony fit to bear arms. Massachusetts contributed a hundred and fifty men, Plymouth thirty, the other two confederates twenty-five each. In other words, the military resources of Massachusetts were nearly double those of the other three colonies combined. Her superiority in other respects does not admit of such definite statistical proof, but it is written on every page of New England history." †

The preamble to the articles is as follows: "Whereas we all came into these parts of America with one and the same end and aim, namely, to advance the kingdom of

* Winthrop, II., 100.

† Doyle, *The Puritan Colonies*, I., 229.

our Lord Jesus Christ, and to enjoy the liberties of the Gospel in purity with peace ; and whereas by our settling, by the wise providence of God, we are further dispersed upon the seacoasts and rivers than was at first intended, so that we cannot, according to our desire, with convenience communicate in one government and jurisdiction ; and whereas we live encompassed with people of several nations and strange languages, which hereafter may prove injurious to us or our posterity ; and forasmuch as the natives have formerly committed sundry insolences and outrages upon several plantations of the English, and have of late combined themselves against us, and seeing by reason of the said distractions in England (which they have heard of), and by which they know we are hindered both from that humble way of seeking advice, and reaping those comfortable fruits of protection, which at other times we might well expect, we therefore do conceive it our bounden duty, without delay, to enter into a present consociation amongst ourselves for mutual help and strength in all future concernment, that, as in nation and religion, so in other respects, we be and continue one, according to the tenor and true meaning of the ensuing articles : ”

The first article gives the name, the United Colonies of New England.

The second is as follows : “ These United Colonies for themselves and their posterities, do jointly and severally hereby enter into a firm and perpetual league of friendship and amity, for offence and defence, mutual advice

and succour upon all just occasions, both for preserving and propagating the truth and liberties of the Gospel, and for their own mutual safety and welfare."

The third carefully defines and protects local self-government in the several colonies, provides that no other colony be admitted to the confederacy, that neither of the colonies should confederate with any other colony then in being, and that no two of the colonies should unite, without the consent of the others, to be given as provided in article six.

The fourth provides that the charge of all just wars, whether offensive or defensive, in men, provisions, and other expenditures, should be borne by the several colonies in proportion to the number of male inhabitants in each, between the ages of sixteen and sixty, and that the commissioners from each colony should, from time to time, render a just and true account of the number of such inhabitants in their colony. It also provides that each colony "be left to their own just course or custom of rating themselves and people according to their different estates, with due respect to their qualities and exemptions among themselves," without inquisition by the confederate government, and that all lands or goods taken in war should be divided among the colonies according to the foregoing proportions.

The fifth provides that, if either colony should be invaded by an enemy, all the others should, upon notice and request of three magistrates of the invaded colony, immediately send to it aid in the following proportions, until

the actual proportions be ascertained. Massachusetts one hundred men, and each of the other colonies forty-five men, properly armed and provided for the service, "or any less number if less be required, according to this proportion," but that if the exigencies of the invaded colony could be met by a force from an adjoining colony, not exceeding in number its quota as above, it might call upon such colony without calling upon the others, and should supply the men thus summoned with whatever would be necessary for them on their journey home. But no colony could, in this manner, be called upon to furnish more than such quota; but if the commissioners at a meeting should decide that a larger force was necessary, they might order more men to be furnished in the above proportions, until at the next meeting the actual number of inhabitants in each colony, between the ages of sixteen and sixty, could be ascertained, when the proportions should be made to conform to the actual numbers. It further provides that, in case of any aid being sent by one colony to another as above provided, either before or after revision, the cause of such invasion or war should be duly considered by the commissioners, and that if it appears "that the fault lay in the party invaded, that then that jurisdiction or plantation make just satisfaction both to the invaders whom they have injured, and bear all the charge of war against themselves, without requiring any allowance from the rest of the confederates towards the same." It further provides that, if either colony deems itself to be in danger of an invasion, and there

is not time for a meeting of the commissioners, three magistrates of the threatened colony, and if such colony have only three, then that two magistrates might summon, at a convenient place designated by them, a meeting of the commissioners to consider of and provide against the threatened danger.

The sixth provides that two commissioners be chosen "by and out of" each colony, "all in church fellowship with us," with full powers, from their respective general courts, "for the managing and concluding of all affairs peculiar to, and concerning the whole confederation;" and that said commissioners should "hear, examine, weigh, and determine all affairs of war or peace, leagues, aids, charges and numbers of men for war, division of spoils, or whatever is gotten by conquest; receiving of more confederates or plantations," . . . "and all things of like nature which are the proper concomitants or consequents of such a confederation for amity, offence, and defence, not intermeddling with the government of any of the jurisdictions, which, by the third article, is preserved entirely to themselves." The commissioners were further authorised "to settle and determine the business in question" by a vote of not less than six of their number, but that if that number should not vote for the propositions offered, "then such propositions, with their reasons, so far as they have been debated, be sent and referred" to the general courts of the several colonies; and if all should vote in favour of the propositions, that said vote should be binding upon the commissioners. This article further provides that the

commissioners should meet annually, "besides extraordinary meetings, according to the 5th article," on the first Thursday of September; that the next, the second meeting, be held at Boston, the third at Hartford, the fourth at New Haven, the fifth at Plymouth, and the sixth and seventh at Boston, "and so in course, successively," unless some central place can be agreed on for the meetings.

The seventh provides that at each meeting of the commissioners a president from their number should be chosen by a vote of at least six members, whose duty should be "to take care and direct for order and a comely carrying on of all proceedings in their present meeting, but he shall be invested with no such power or respect, as by which he shall hinder the propounding or progress of any business, or any way cast the scales otherwise than in the preceding articles is agreed." The eighth provides that the commissioners, at their meetings, as they have opportunity, should "endeavour to frame and establish agreements and orders in general cases of a civil nature, wherein all the plantations are interested, for preserving peace amongst themselves, and preventing, as much as may be, all occasions of war or differences with others, as about free and speedy passage of justice in each jurisdiction to all the confederates equally, as to their own, receiving those that remove from one plantation to another without due certificates," and how each plantation should deal with the Indians. It was "also agreed that if any servant run away from his master into any one of these confederate jurisdictions, that in such case, upon certificate of one magis-

trate in the jurisdiction out of which the said servant fled, or upon other due proof, the said servant shall be delivered either to his master or any other that pursues and brings such certificate for proof. And that upon the escape of any prisoner or fugitive for any criminal cause, whether breaking prison or getting from the officer, or otherwise escaping, upon the certificate of two magistrates of the jurisdiction out of which the escape is made, that he was a prisoner or such an offender at the time of the escape, the magistrate, or some of them of the jurisdiction where for the present the said prisoner or fugitive abideth, shall forthwith grant such a warrant as the case will bear, for the apprehending of any such person and the delivery of him into the hand of the officer or other person who pursueth him; and if there be help required for the safe returning of any such offender, then it shall be granted unto him that craves the same, he paying the charges thereof."

The ninth declares, "And for that the justest wars may be of dangerous consequence, especially to the smaller plantations in these united colonies," and provides that neither colony, nor any of the members of them, should engage in any war, except in the sudden emergencies provided for, without the consent of the commissioners, "and that no charge be required of any of the confederates, in case of a defensive war, till the said commissioners have met and approved the justice of the war, and have agreed upon the sum of money to be levied, which sum is then to be paid by the several confederates in proportion, according to the 4th article."

The tenth provides that when meetings of the commissioners shall be called by magistrates as provided in the fifth article, and the whole number does not convene, that then four members shall have power to direct a war which could not be delayed, and to send for men from each colony; but that "not less than six should determine the justice of the war, or allow the demands or bills of charges, or cause any levies to be made for the same."

The eleventh provides that if either colony break any of the articles or does anything injurious to any other colony it should be dealt with by the commissioners of the other colonies, "that both peace and this present confederation may be entirely preserved without violation."

The twelfth recites the adoption of the articles by the Legislatures of the several colonies.*

These articles served as a model for the "Articles of Confederation," adopted by the colonies in 1781; and to them may be traced many important provisions in the constitution of the United States.

The provision in the constitution that all powers not delegated to the United States by the constitution, nor prohibited by it to the States, respectively, or to the people, are reserved to the States, respectively, or to the people, — that taxes be apportioned on the basis of population; that the Senate of the United States, representing the States, be composed of two members from each State chosen by the legislature thereof; that Congress assemble at least once in every year; that it have power to declare war, to

* Winthrop, II., 101-106.

call forth the militia to repel invasions and to make rules concerning captures ; that no State shall enter into any agreement with another State or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay ; that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States ; that any person charged in any State with crime, who shall flee and be found in another State, shall be delivered up on the demand of the executive authority of the State from which he fled ; that any person held to service or labour in one State, escaping into another, shall be delivered up on claim of the party to whom such service or labour may be due ; that no new State be formed within the jurisdiction of an existing State, nor any union of two or more States be made without the consent of Congress,—are taken, some nearly literally, from these articles.

The Confederacy was established without any authority from the king or Parliament, and in the articles no mention is made of either. In its establishment the several colonies exercised the highest powers of sovereign and independent States. They confederated under the name of the “United Colonies of New England,” and declared the union to be perpetual. The contest between the king and Parliament might afford a reason why the act passed unnoticed at the time, yet the confederation was continued with some change under the Long Parliament, Cromwell and Charles II., until the forfeiture of the colony charter.

CHAPTER XII.

SAMUEL GORTON.

ONE of the questions presented to the Federal Commissioners at their first meeting was in regard to the course being pursued by Massachusetts toward one Samuel Gorton and his associates. Gorton arrived at Boston pending the controversy with Mrs. Hutchinson, but soon removed to Plymouth. He styled himself "Professor of the mysteries of Christ," and claimed the right, without ordination, to preach and prophesy, and wherever he went was a disturber of the peace of the churches and of the community. In a short time he was driven out of Plymouth and went to Aquedneck, where he soon caused division among the followers of Mrs. Hutchinson, some of whom removed from Portsmouth to Newport. He defied the authorities and made such disturbance in Portsmouth that he was whipped and banished from the settlement, when he went to Patuxet, over which Providence exercised jurisdiction. He soon made himself intolerable to the people there, and, in the words of Roger Williams, "having abused high and low at Aquedneck, bewitching and madding poor Providence." * After residing in Patuxet about one year, until the autumn of 1641, some

* Hypocrisy unmasked, 55.

of the principal inhabitants petitioned Massachusetts for assistance against him. Massachusetts declined to take action unless the inhabitants would place themselves under its jurisdiction or the jurisdiction of Plymouth. Some twelve months after, William Arnold and three others, probably as the representatives of the inhabitants, offered to submit to the jurisdiction of Massachusetts. The offer was accepted by Massachusetts, and Arnold and the three other persons were authorised to keep the peace in the territory and promised support against Gorton. At the same time notice of the submission was given to Gorton, and he and his associates were summoned to appear at Boston to make good their claim to the lands they occupied. To this a defiant reply was made, and, without waiting for further proceedings, Gorton removed to Shawomet, now Warwick, and made a purchase of its territory from Miantonomo, sachem of the Narragansetts, which was ratified by Saconoco and Pomham, two chiefs who claimed ownership of the land. The next summer these chiefs applied to Massachusetts for redress, denying the validity of the sale upon the ground of duress on the part of Miantonomo, and offered to submit to the jurisdiction of Massachusetts, whereupon, the General Court informed Gorton and his company by letter of the complaint and offer of the chiefs, and notified them if they had anything to say against it that they come or send to the next General Court. They also gave the same information and notice to Miantonomo, who appeared at the next General Court, where, upon being interrogated, he could not

substantiate his claim. Other testimony was also presented which satisfied the court that the claims of the chiefs were just, and commissioners were appointed who met them and proposed terms which they accepted and submitted themselves and lands to the jurisdiction of Massachusetts. Information of this was given to Miantonomo and to the English residents on the place. Soon after, complaints were made by the chiefs and by the inhabitants of Patuxet of continual injuries offered them by Gorton and his company, whereupon the General Court sent, requesting them to appear at Boston, and answer to the complaints, with letters of safe conduct.* They refused to come, "but sent two letters full of blasphemy against the churches and magistracy." At this stage of the proceedings the subject was submitted to the Commissioners of the United Colonies then in session, who ordered that if Gorton and his company should "stubbornly refuse" to appear and answer to the complaints, "some of them weighty and of great consequence," that the magistrates of Massachusetts should proceed against them, and that their action would be approved by the several jurisdictions, provided that any claim of Plymouth to the land should not be prejudiced thereby. Whereupon, after repeated renewals of the request were made by Massachusetts to which no reply was returned, Gorton and his company were notified that, "to the end that our justice and moderation might appear to all," commissioners would be sent to them to hear their answers, who would be attended by

* Mass. Records, II., 41. Winthrop, II., 137.

"a sufficient guard." Accordingly three commissioners were appointed, who proceeded to Providence with a guard of forty soldiers. Meanwhile, Gorton and his company sent their women and children into the woods and entrenched themselves in a house made musket-proof; and through the mediation of some Providence men proposed an arbitration, which was refused. The commissioners, with their men, entrenched themselves near the house, and made several ineffectual attempts to set it on fire, upon which Gorton and his company, excepting three men who had escaped, capitulated and were taken to Boston and there committed to prison.* The next Lord's day, under threat of compulsion, they agreed to attend meeting if they would be allowed to speak after the sermon, if they should desire to. They were informed that this was a matter for the elders, "but there was no doubt they might have leave to speak so as they spake the words of truth and sobriety." They attended, Mr. Cotton preached, and at the close of his sermon Gorton, upon his request, was granted the right to speak, whereupon he commented on the sermon, and among other things said, "that all our ordinances, ministers, sacraments, etc., were but men's inventions for show and pomp."†

Upon the assembling of the General Court in October, 1643, upon a lecture day, Gorton and his company were arraigned, and there before a great assembly "the governor declared the cause and manner of our proceeding against them, and their letters were openly read." For

* Winthrop, II., 137-140.

† Ibid, 143.

answer they denied that they were within the jurisdiction of Massachusetts, and that if they were under no jurisdiction the only way they could be interfered with was by force of arms. They were replied to, and Winthrop states that "as for their opinions we did not meddle with them for those, otherwise than they had given us occasion by their letters to us, and by their free and open publishing them amongst us, for we wrote to them only about civil controversies between them and our people, and gave them no occasion to vent their blasphemings and revilings, etc. And for their title to the Indians' land, we had divers times desired them to make it appear, but they always refused, even to our commissioners, whom we sent last to them, and since they were in prison we offered to send for any witnesses they would desire, but still they refused." They were severally interrogated whether they maintained what was written in the letters, and they replied they did, "in that sense wherein they wrote them." Much time was spent with them to little effect, when the judgment of the elders was required "about their blasphemous speeches and opinions, what punishment was due by the word of God. Their answer was first in writing, that if they should maintain them as expressed in their writings, their offence deserved death by the law of God." The court then prepared the charge against them, which was that they were "blasphemous enemies of the true religion of our Lord Jesus Christ, and of all His holy ordinances, and likewise of all civil government among His people, and particularly within

this jurisdiction." "After divers means had been used both in public and in private to reclaim them, and all proving fruitless," the court considered their sentence. All the magistrates but three were of the opinion that the offence deserved death, but a majority of the deputies dissented. Finally, all agreed, as to seven of them, that they should severally be sent to different towns and kept at work, each with irons upon one leg, and that they should not, by word or writing, "maintain any of their blasphemous or wicked errors upon pain of death." This sentence to continue during the pleasure of the court. They were accordingly sent, one to each of seven towns. Three others were discharged, two of them upon a small ransom, and a fourth one was enjoined to abide in Watertown, "upon pain of the court's displeasure only." Soon after the sentence, men were sent to Shawomet to take cattle to defray the cost of the proceedings. Notwithstanding the order of the court, those sentenced propagated their heresies in the towns to which they were committed, and at the next session of the General Court, in March, 1644, they were liberated, conditioned upon their departure out of the jurisdiction of Massachusetts within fourteen days.* They went to Aquedneck, where they remained without further disturbance.

* Winthrop, II., 143-146. Hutchinson, I., 112-117.

CHAPTER XIII.

DE LA TOUR AND D'AULNAY.

ANOTHER question came before the Confederate commissioners at their second meeting, in September, 1644, arising out of the conduct of Massachusetts toward De La Tour, who claimed to be governor of Acadia.

By the treaty of St. Germaine in 1632, England conceded to France the title to Acadia. At that time, and until his death in 1635, Razilly had command of the province, with D' Aulnay for lieutenant of all the territory west of the St. Croix River, and De La Tour of all east of it. During his administration, and a short time before his death, he seized the trading house and goods of the Plymouth people on the Penobscot, upon the claim that his jurisdiction extended to that river. Upon the death of Razilly both his lieutenants claimed control of all Acadia. D' Aulnay had his principal fort and trading post on the Penobscot, and De La Tour his on the St. John's. As the principal object of both was trade with the Indians, there was a constant conflict of interests and occasional war between them. In November, 1641, De La Tour sent a messenger to Boston, proposing liberty of free commerce, and requesting assistance against

D'Aulnay, and authority to make returns from England through our merchants. The offer of free trade was accepted, but the governor and council declined to make any treaty, as the messenger had no written authority from De La Tour. The messenger "was courteously entertained here," and after a few days departed.*

In October of the next year, 1642, De La Tour sent his lieutenant with fourteen men in a shallop to Boston, again requesting aid against D'Aulnay, and renewing the proposal for free trade, but no assurance of assistance was made.† Upon their return, some merchants of Boston sent a pinnace to St. Johns with agents to trade with De La Tour. The voyage was a prosperous one, and they brought back letters to the governor from De La Tour, in which he made a full statement of his side of the controversy with D'Aulnay. On their way back they met D'Aulnay at Pemaquid, who also wrote a letter to the governor in which he threatened to make prize of any vessels that should be sent to his rival, and sent to him a copy of a warrant which had come from France for the arrest of De La Tour.‡ In June of the next year, 1643, De La Tour came to Boston in a ship with one hundred and forty persons. He informed the governor that the ship arriving from France with supplies for his fort was prevented from reaching it by D'Aulnay, who had blockaded the passage to it, and requested aid to raise the blockade. He stated that his conduct had been satisfactorily explained to the officers of the French Government,

* Winthrop, II., 42, 43.

† Ibid, 88.

‡ Ibid, 91.

and he exhibited written authority under the hands of the proper officers in France for the ship to take supplies to him at St. Johns. In the order he was styled His Majesty's Lieutenant-General of Acadia.

The governor called together such of the magistrates and deputies as were in and near Boston, and laid the request before them. But they understanding that they could not comply with his request without authority from the Confederate commissioners, yet decided that they could, and they did, give their consent that he might hire vessels and employ such men as should volunteer for his purpose.* "But the rumour of these things soon spreading through the country were diversely apprehended, not only by the common sort, but also by the elders, whereof some in their sermons spoke against their entertainment and the aid permitted them, others spake in justification of both." The masters and men in the ships also desired advice regarding the proceedings, "whereupon the governor appointed another meeting to which all the near magistrates and deputies and the elders also were called, and there the matter was debated," etc. †

On the one side it was claimed that De La Tour, "being in urgent distress, and therefore as our neighbour to be relieved," and that as D'Aulnay was a "dangerous neighbour to us, if he have none to oppose him or to keep him employed at home, he will certainly be dealing with us." It was contended on the other side that it was unlawful

* Winthrop, II., 107, 108.

† Ibid, 109.

for Christians to aid idolaters; that "by aiding papists we advance and strengthen popery; that we had only examined the matter of the controversy between De La Tour and D'Aulnay, *ex parte*; that we may provoke the State of France against us, or at least D'Aulnay, and so be brought into another war," and that such aid should not be permitted without the advice of the General Court. The result was that the decision of the first meeting was reaffirmed,* and on the fifteenth day of July, De La Tour set sail with four ships and a pinnace and seventy volunteers hired for two months. The larger ship carried sixteen pieces of ordnance.† A letter was written by the governor to D'Aulnay in reply to the one received from him and sent by the expedition, in which the reasons for aiding De La Tour were given, which letter was to be delivered before the commencement of hostilities. In the letter the governor stated that the men permitted to go were instructed "to labour by all means to bring matters to a reconciliation, and that they should be assured that, if they should do or attempt anything against the rules of justice and good neighbourhood, they must be accountable therefor unto us at their return." ‡

When the ships were discovered by D'Aulnay he set sail with his vessels, consisting of two ships and a pinnace. De La Tour pursued him to Port Royal, where he found that D'Aulnay had run his ships aground and was fortifying himself on shore. Whereupon a messenger was sent to D'Aulnay with the governor's letter and a letter from

* Winthrop, II., 109-115.

† Ibid, 127.

‡ Ibid, 125.

Captain Hawkins, who commanded the expedition. D'Aulnay replied to the letters, "but refused to come to any terms of peace." De La Tour then urged our men to attack him, which they refused to do. He then requested that some of the Massachusetts men be landed with his to destroy some of the property of D'Aulnay. Hawkins would not send any, but gave leave for any that desired to, to go. Whereupon some thirty volunteered, who, with De La Tour's men, landed and marched to D'Aulnay's mill, which they found to be fortified; made an attack upon it, drove out the enemy, killed three men, with no loss of life in the attacking party. They then burned the mill, and some standing corn, and returned to their ships, with one prisoner they captured in the mill. They then sailed to De La Tour's fort, where they remained until their time expired, in the meantime capturing a pinnace, with moose and beaver skins, which belonged to D'Aulnay, which came to the river, supposing it was occupied by him. They all returned safe, but Winthrop says "the report of their actions was offensive and grievous to us."*

In July, 1644, De La Tour came to Salem to again request aid against D'Aulnay, which was refused, and the governor and council issued an order, commanding a strict neutrality. In September, the Massachusetts commissioners called the attention of the Confederate commissioners to the dealings of their colony with De La Tour; stated fully what had been done and the explanations and offers that had been made to D'Aulnay, and desired the

* Winthrop, II., 134, 135.

advice of the commissioners upon the course to be pursued in the future. They gave their opinion that sufficient explanations and offers had been made to D'Aulnay, and resolved that if he persisted in his refusal to treat with Massachusetts, and seized any vessels belonging to either colony, or made any other hostile demonstration, then that Massachusetts might seize any vessel of his "to recover their losses," and that if its General Court should become satisfied that D'Aulnay was so determined upon war "that peace and neighbourly correspondence cannot be had on any equal terms," then that its General Court might treat with De La Tour, and purchase, for the United Colonies, all his right and title to the fort and lands on St. John's River; and, if he should decline to sell, then that the best measures should be taken to secure the fort, that it should not fall into the hands of D'Aulnay.

Within a month after the meeting of the commissioners an embassy from D'Aulnay arrived at Salem, and, after a full consideration of the relations of the parties, a provisional treaty of peace and free trade was concluded, and, in 1646, all matters in dispute between them were amicably settled.* Meanwhile, in 1642, D'Aulnay made an attack upon De La Tour, captured and destroyed his settlement, and took his wife prisoner, who died within a few weeks. Four years after, D'Aulnay died, and De La Tour married his widow, which settled all disputes in regard to his claims.

* Winthrop, II., 274.

CHAPTER XIV.

THE DISPUTE BETWEEN THE ASSISTANTS AND THE DEPUTIES. — DISAFFECTION IN ESSEX COUNTY. — TROUBLE IN HINGHAM.

THE mode of elections, requiring voters from all parts of the colony to meet in one place for election of magistrates, caused great inconvenience; and in March, 1636, it was ordered by the General Court that at the ensuing May election the towns of Ipswich, Newbury, Salem, Saugus, Weymouth, and Hingham should "have liberty to stay so many of their freemen at home, for the safety of their Town, as they judge needful, and that the said freemen that are appointed by the town to stay at home shall have liberty for this Court to send their voices by proxy."* March, 1637, it was ordered that for the future all freemen might send their votes by proxy in the following manner: that the deputies, after their election, should call a meeting of the voters of their respective towns, and take the votes of such as should desire to vote by proxy "for every magistrate," write the names of the magistrates voted for on the "back side" of each vote, seal them up and take them to the General Court, with an open list of the names of such voters.†

* Mass. Records, I., 166.

† Ibid, 188.

In May, 1640, it was ordered that the deputies of the several towns at the meetings at which they are elected should call for nominations for magistrates, record the names of those nominated, and the number of votes for each, and make return of the same to the next General Court, and that the assistants and deputies should count the votes from the several towns and ascertain what persons had the highest number of votes, to the full number of assistants, and that the deputies should inform their townsmen of the names of those having the highest number of votes as above, that they might consider them until the day of election, "to choose or refuse as they shall see good;" but that none should be voted for at the election "for new magistrates, but such as shall come to nomination in the order aforesaid." * In June, 1641, the General Court proposed for the consideration of the people, that in the several towns one-tenth in number of the freemen be elected to represent and vote for them all at the court of elections, and the deputies were instructed to report at the next session the views of their constituents upon the proposition,† but no report was made.

In June, 1642, it was ordered that the several towns choose each one or more representatives to meet at Salem on "the first fourth day of the second month next," and "consider and agree upon a certain number of the most able and fit men in this jurisdiction to be put to nomination for magistrates at the next Court of Elections," and certify their names to the secretary of the colony, and that

* Mass. Records, I., 293.

† Ibid, 333.

the names of none others than those nominated should be "put to vote" at the election.* In May, 1643, it was ordered that the order passed in May, 1640, be revived, with some explanations.† In November, 1644, it was ordered that the freemen in the several towns should meet within two months from the passage of the order and vote for seven new magistrates; that the votes be sealed up at the meeting and taken by a committee from each town to the shire-town of the county "upon the last fifth day of the last month," that the committee of the several towns being thus assembled should seal up in one package the votes of all the towns without opening them, and send them by a committee of their number to a meeting of the magistrates at Boston, "on the last third day of the first month," at which meeting they should be opened and the votes counted, and "those persons nominated for magistrates that have most votes to the number of seven, shall be they that shall be put to vote at the day of election, and that such as have most votes, to be first nominated and put to election, that the freemen may know for whom to send in their proxies," that the committees present from the several counties should give information of the result to the committees of every town in their county, who should call meetings of their voters and impart to them the information, that they might have time to consider of the candidates and "send in their proxies accordingly, and no other shall be put to vote but such as are agreed upon, as before." ‡

* Mass. Records, II., 21.

† Ibid, 37.

‡ Ibid, 87.

In March, 1639, it was voted that whereas hitherto some towns had elected three deputies, that thereafter each town be limited to two deputies. This was regarded as a movement on the part of the assistants to curtail the power of the deputies.* In November, 1644, it was proposed with a view to remove the jealousies between the assistants and deputies, that the trial should be made for one year of limiting the number of deputies to the number of assistants, and to this end that the counties and not the towns should be the basis of representation, the votes to be given in the several towns and taken, sealed, to the shire-town, at a time appointed, where they should be counted in the presence of a magistrate ; and as many, to the number prescribed, as had the most votes should be declared chosen. The number was limited to twenty, six from Suffolk, six from Middlesex and eight from Essex and Norfolk, "being joined in one." It was further provided, that as the assistants varied in number, not to exceed eighteen in all, that the deputies thus chosen should meet at the General Court and there have their number reduced to the number of assistants for the time being, by selecting those having the highest number of votes to the number required ; and, during the continuance of the order, "to have the use of the negative vote forborne both by magistrates and deputies."† The scheme was not approved by the people, and was abandoned.

But the disputes between the assistants and the deputies regarding the negative vote were in process of settle-

* Mass. Records, I., 254.

† Mass. Records, II., 88, 89.

ment through singular means. In 1636, one Captain Keayne found a stray hog which he put into a pen with a hog of his own. He had it cried several times, but no one appeared to claim it. Nearly a year after he killed one of the hogs, when, for the first time, a woman named Sherman, who had lost such a hog, made claim that the estray was hers. Not finding the marks on the live hog by which she had stated she could identify it, she declared that the one killed was hers. This caused much excitement in the community, and the matter was brought before the elders, who, after an examination of many witnesses, decided in favour of Keayne. Not satisfied with this, Sherman brought an action against Keayne in the Quarter Court of Boston. Upon a trial the jury found for Keayne with costs assessed at three pounds. Keayne then sued Sherman and one Story, her adviser, for slander, in reporting that he had stolen Sherman's hog, and recovered twenty pounds damages against both. Some time after, Story produced in the court at Salem one of the witnesses for Keayne upon the trial, who confessed that in his testimony he committed perjury, and upon the strength of this he petitioned the General Court in the name of Sherman for a new trial in that court, which was granted. This was in 1642. Nearly seven days were occupied "with much contention and earnestness" in the trial, and the court stood seventeen members, two magistrates and fifteen deputies for Sherman, and fifteen, seven magistrates and eight deputies, for Keayne, and seven deputies "stood doubtful."

According to Winthrop the case "was not determined," as "no sentence could by law pass without the greatest number of both (magistrates and deputies), which neither plaintiff nor defendant had." This raised again the question whether the General Court was to act by the aggregate or the concurrent vote of the magistrates and deputies, or, as the people understood it, whether the magistrates, being fewer in number than the deputies, could negative or veto the acts of a majority of the court, as, if they were to act together as one body, Sherman won the case by a majority of two, but if no decision could be reached without the vote of the magistrates as a separate body, then Keayne prevailed, as a majority of that body voted in his favour. The popular feeling was strong against Keayne, largely from the fact that he was "of ill report in the country for a hard dealer in his course of trading," and there was much disappointment among the people at the result, which "gave occasion to many to speak irreverently of the Court, especially of the magistrates, and the report went, that their negative voice had hindered the course of justice, and that these magistrates must be put out, that the power of the negative voice might be taken away."

The feeling excited was so strong that "it was thought fit for the governor and other of the magistrates to publish a declaration of the true state of the cause, that truth might not be condemned unknown.* The next year, 1643, the subject was reopened. Friends of Sherman stated

* Winthrop, II., 69-72.

"a new case" to the elders, which was approved by them, but upon presenting it to the other side an answer was made which satisfied the elders, who, at a meeting of magistrates, elders and "some of the deputies" declared, that, notwithstanding their former opinions, yet for reasons which they stated, "they did not see any ground for the Court to proceed to judgment in the case," and expressed an earnest desire "that the Court might never be more troubled with it." To this all but Mr. Bellingham of the magistrates consented, and those of the deputies present who had voted for Sherman "seemed now to be satisfied." But Story was not satisfied, and preferred a petition to the General Court for a new hearing, which was referred to the committee for petitions, a majority of whom reported in favour of a rehearing; but some members, ascertaining that Keayne had remitted the twenty pounds judgment, and had only collected the three pounds for costs, and had offered to remit that if Sherman would acknowledge the wrong she had done him, a motion was made that friends of Keayne should undertake to persuade him to restore the three pounds, and refer all matters between Story and him. "This the Court were satisfied with, and proceeded no further."*

In March, 1644, "upon the motion of the deputies, it was ordered that the Court should be divided in their consultations, the magistrates by themselves, and the deputies by themselves, what the one agreed upon they should send to the other and if both agreed then to pass,

* Winthrop, II., 115-117.

etc. This order determined the great contention about the negative voice." *

At the same session a proposition was made "for yielding some more of the freemen's privileges to such as were no church-members that should join in this government." The subject was considered and the proposition referred to the next General Court ; and it was ordered that, in the meantime, letters should be written to the other colonies to advise with them about it. But Winthrop says "nothing was effected for want of opportunity of meeting, etc." †

Winthrop in the strife upon the negative voice had shown much feeling, and published a paper defending the position taken by the magistrates, which gave offence to those of the other side, and he was requested by the elders to make some explanation which would appease them, which he expressed an entire willingness to do, and as soon as he came into the General Court, he made a speech in which he said that in the matter of his paper he did not desire to make any retraction ; but that as to the manner of it, he added, "that which I wrote was upon great provocation by some of the adverse party, and upon invitation from others to vindicate ourselves from that aspersion which was cast upon us, yet that was no sufficient warrant for me to break out into any distemper," and that in what he wrote, "I did arrogate too much to myself and ascribe too little to others" and "I confess it was now not so be seeming me, but was indeed a fruit of the pride of mine own spirit. These are all the Lord hath

* Winthrop, II., 160.

† Ibid, 160.

brought me to consider of, wherein I acknowledge my failings, and humbly entreat you will pardon and pass them by ; if you please to accept my request, your silence shall be a sufficient testimony thereof unto me, and I hope I shall be more wise and watchful hereafter." *

The conduct of the magistrates towards La Tour, which in the country was assumed to be intended for the benefit of the merchants of Boston at the risk of a war with the French, and their persistency in controlling legislation through "the negative voice," caused great dissatisfaction, especially with the people of Essex County. The country people regarded what had been done as intended to centralise the powers of government in Boston, in and near to which most of the magistrates resided. In July, 1643, three magistrates, Saltonstall, of Watertown, and Bradstreet and Symonds, of Ipswich, with Ward, who had been minister at Ipswich, and three ministers, Nathaniel Rogers and John Norton, of Ipswich, and Ezekiel Rogers, of Rowley, joined in a letter to Winthrop remonstrating against his course with La Tour, to which Winthrop made a spirited reply.† The dissatisfaction was so great that, at the annual election in May, 1644, Endicott was substituted for Winthrop as governor, and Winthrop was chosen deputy governor. In the words of Winthrop, "At this Court there arose some trouble by this occasion. Those of Essex had procured at the Court before, that the deputies of the several shires should meet before this

* Winthrop, II., 118.

† Ibid, II., 109. Hutchinson papers, 115, 132.

Court to prepare business, etc., which accordingly they did, and propounded divers things which they agitated and concluded among themselves without communicating them to the other shires, who conceived they had been only such things as had concerned the Commonwealth, but when they came now to be put to this Court, it appeared that their chief intent was to advantage their own shire.* As 1, by drawing the government thither; 2, by drawing the Courts thither; 3, by drawing a good part of the country stock thither; 4, by procuring four of those parts to be joined in commission with the magistrates. And for this end they had made so strong a party among the deputies of the smaller towns (being most of them mean men, and such as had small understanding in affairs of State), as they easily carried all these among the deputies. But when the two bills came to the magistrates, they, discerning the plot, and finding them hurtful to the Commonwealth, refused to pass them, and a committee of both being appointed to consider the reasons of both sides, those of the magistrates prevailed."†

* In May, 1643, by an order of the General Court, "the whole plantation within this jurisdiction" was divided into four shires, as follows :

ESSEX.—Salem, Linn, Enon (Wenham), Ipswich, Rowley, Newberry, Gloucester, Cochichawick (Andover).

MIDDLESEX.—Charlestowne, Cambridge, Watertowne, Sudberry, Concord, Wooborne, Meadford, Linn Village (Reading).

NORFOLK.—Salsberry, Hampton, Haverill, Exceter, Dover, Strawberry Banck (Portsmouth).

SUFFOLK.—Boston, Roxberry, Dorchester, Dedham, Braintree, Weymouth, Hingham, Nantaskot.

† Winthrop, II., 167.

The deputies also passed an order for a commission to consist of seven magistrates, three deputies, with Mr. Ward, "to order all affairs of the Commonwealth in the vacancy of the General Court." The magistrates non-concurred on the order. Committees of the two branches met; the subject was discussed, and modifications of the order proposed, which were not accepted by the magistrates. It was then proposed that the magistrates "would consent that nothing might be done till the court met again," which was to be on the 28th day of October. To this was answered that, if occasion required, they (the magistrates), must act according to the power and trust committed to them, to which their speaker replied, "You will not be obeyed."* According to Winthrop, the deputies committed "another great error," by "choosing one of the younger magistrates (though a very able man), Mr. Bradstreet, and one of the deputies, Mr. Hathorne (the principal man in all these agitations), a young man also, to be commissioners of the United Colonies; both eastern men, quite out of the way of opportunity of correspondence with the other confederates."

The strife between the magistrates and the deputies continued. An extra session of the General Court was held on June 28. The governor of Plymouth applied for powder, of which the colony was in great need. The magistrates voted to supply them with two barrels, but the deputies refused consent. After the adjournment of the court, the people of Rhode Island being in great

* Winthrop, II., 167-169.

fear of the Indians, applied for some powder and other ammunition, but the magistrates declined to furnish them, as the deputies had refused to grant the same favour to Plymouth, a confederate colony.* "The General Court assembled again (in October), and all the elders were sent for to reconcile the differences between the magistrates and deputies."

Many questions were submitted to the elders, to which reference has been heretofore made. But the most important one for the time, was, "whether the magistrates are by patent and election of the people, the standing council of this Commonwealth in the vacancy of the General Court, and have power accordingly to act in all cases subject to government, according to the said patent and laws of this jurisdiction." After consultation, the elders replied in writing through Mr. Cotton. "Their answer was affirmative on the magistrates, behalf in the very words of the question, with some reasons thereof."† This was accepted by a vote of the court, and "most of the deputies were now well satisfied concerning the authority of the magistrates, etc."‡

For the first ten years, the assistants appointed the preacher of the election sermon; but, in 1642, "some of the freemen, without the consent of the magistrates or governor, had chosen Mr. Nathaniel Ward to preach at this court, pretending it was a part of their liberty. The governor (whose right indeed it is, for till the court be assembled, the freemen are but private persons), would

* Winthrop, II., 171, 172.

† Ibid, 204.

‡ Ibid, 209.

not strive about it, for though it did not belong to them, yet if they would have it, there was reason to yield it to them." In the sermon, "among other things, he advised the people to keep all their magistrates in an equal rank," also that the magistrates should not give private advice.* In 1643, Winthrop says, "our Court of Elections was held when Mr. Ezekiel Rogers, pastor of the church in Rowley, preached. He was called to it by a company of freemen whereof the most were deputies chosen for the court, appointed, by the order of the last court, to meet at Salem about the nomination of some to be put to the vote for the new magistrates." Mr. Rogers, hearing that ~~exception~~ ^{an exception} was taken to his election, wrote to the governor for advice, to which the governor replied, "he did account his calling not to be sufficient, yet the magistrates were not minded to strive with the deputies about it, but seeing it was noised in the country, and the people would expect him, and that he had advised with the magistrates about it, he wished him to go on." In his sermon he described the qualifications the governor should possess and advised strongly against "choosing the same man twice together, and expressed his dislike of that with such vehemency as gave offence. But when it came to trial, the former governor, Mr. Winthrop, was chosen again,"† and at the October term of the General Court, in 1644, the deputies elected Mr. Norton, of Ipswich, to preach the next election sermon, of which they gave the magistrates no notice, and, some two months before election day,

* Winthrop, II., 35.

† Ibid, 99.

the governor and some of the magistrates, not knowing what the deputies had done, invited Mr. Norris, of Salem, to preach the sermon. But at a subsequent meeting, the magistrates concurred in the election of Mr. Norton. "The reason was, the unwillingness of the magistrates to have any fresh occasion of contestation with the deputies." *

At the annual session of the General Court in May, 1645, "fell out a troublesome business which took up much time." The train band in Hingham elected one Eames, who had been lieutenant seven or eight years, captain, and presented his name to the standing council for confirmation, but before it was accomplished "the greater part of the town took some light occasion of offence against him and chose one Allen to be their captain, and presented him to the magistrates (in the time of the last General Court), to be allowed." But the magistrates, considering the claims of the two men, refused to confirm Allen, and advised that every officer should keep his place until the further order of the court. Soon after, the friends of Allen appointed a day for training, without the knowledge of Eames. But hearing of it, Eames appeared and proposed to take command, but the adverse party refused to follow him unless he should show some order for it. He stated the order of the magistrates, which was claimed by his opponents to be that he should resign. The authority of the magistrates was disputed and it was stated that "Mr. Allen had brought more for them from

* Winthrop, II., 218, 219.

the deputies, than the lieutenant had from the magistrates." Finally a vote was taken and Allen was sustained. He then took command and was followed by about two-thirds of the company. The rest followed Eames, and the men were exercised two or three days. Eames, on the field, had denied that the magistrates had advised him to resign, "and putting (in some sort) the lie upon those who had so reported, was the next Lord's day called to answer it before the Church." After a hearing, the pastor, Mr. Hobart, brother of three men who took side with Allen, "was very forward to have excommunicated the lieutenant presently, but, upon some opposition it was put off to the next day." Whereupon Eames and some of the principal men of the town informed "four of the next magistrates of these proceedings, who forthwith met at Boston about it." The magistrates, of whom Deputy Governor Winthrop was one, after considering the case, sent a warrant to bring the three Hobarts, brothers of the pastor, and two others, to appear at Boston and give sureties for their appearance at the next court. The pastor, Mr. Hobart, came in advance of them, and was so insolent that "some of the magistrates told him that, were it not for respect to his ministry, they would commit him." The accused, upon their arrival, were bound over to the next court. After this five others were sent for by summons for speaking untruths of the magistrates in the church. After a hearing they were required to give a bond for their appearance, which they refused to do. The deputy governor reasoned with them and gave them time to consider it. About

fourteen days after, two of them came into court, and the deputy governor again required them to give bond for their appearance, and upon their refusal, ordered them, in open court, to be committed. The General Court intervened between the time of their committal and the session of the Court of Assistants to which they were bound over, and a petition was presented to it, headed by Mr. Hobart and signed by eight other men of Hingham, asking that court to hear the cause. The petition was first presented to the deputies, who voted in favour of a hearing, and sent it to the magistrates for concurrence. The magistrates were surprised that this should be done without a conference first, but returned answer that they were willing the cause should be heard, if the petitioners would name the magistrates intended and allege charges. The deputies then called upon the deputies from Hingham, who acted for the petitioners, to comply with the request of the magistrates, and they named the Deputy Governor Winthrop, as the man to be charged, and two of the petitioners undertook the prosecution. The petition was then returned to the magistrates, who were of the opinion that it would be prejudicial to the honour of the court to call a magistrate to answer for judicial acts, especially without any previous private examination, "yet if they would needs have a hearing they would join in it." Winthrop himself desired that this should be done, as he and the other magistrates suffered from the slanderous reports in the case, and wished that the cause might have a public hearing. The hearing was had in the meeting-house in

Boston, in the presence of some of the elders and a great assembly of the people. Winthrop placed himself at the bar of the court and sat uncovered.

Question was made whether he should not take his place as magistrate, but he replied, "that being criminally accused he might not sit as a judge in that cause." After a full hearing and much dispute between the two houses, "they at last came to this agreement, viz. : the chief petitioners and the rest of the offenders were severally fined (all their fines not amounting to fifty pounds), the rest of the petitioners to bear equal share to fifty pounds more, towards the charges of the court (two of the principal offenders were the deputies of the town, Joshua Hobart and Bozone Allen ; the first was fined twenty pounds, and the other five pounds), Lieutenant Eames to be under admonition, the deputy governor to be legally and publicly acquit of all that was laid to his charge." Winthrop remained at the bar until the governor had read the decision of the court ; after which, at the request of the court, he took his place upon the bench, and made a speech, in which he discussed the authority of the magistrates and the liberties of the people. In speaking of the magistrates, he said : "I entreat you to consider, that when you choose magistrates, you take them from among yourselves, men subject to like passions as you are. Therefore, when you see infirmities in us you should reflect upon your own, and that would make you bear the more with us, and not be severe censurers of the failings of your magistrates, when you have continual experience of the like infirmities in

yourselves and others. . . . But when you call one to be a magistrate, he doth not profess or undertake to have sufficient skill for that office, nor can you furnish him with gifts, etc., therefore you must run the hazard of his skill and ability. But if he fail in faithfulness, which, by his oath, he is bound unto, that he must answer for." He then referred to liberty, the one kind natural liberty, without restraint ; the other he called civil, or federal liberty, and said, "This liberty is the proper end and object of authority, and cannot subsist without it ; and it is a liberty to that only which is good, just, and honest. This liberty you are to stand for, with the hazard (not only of your goods, but) of your lives, if need be. Whatsoever crosses this, is not authority, but a distemper thereof. This liberty is maintained and exercised in a way of subjection to authority ; it is of the same kind of liberty wherewith Christ has made us free." *

* Winthrop, II., 221-229.

CHAPTER XV.

MASSACHUSETTS CONGREGATIONALISM IN ENGLAND.

THE Parliament known as the Long Parliament met November 3d, 1640. A majority of both houses believed it necessary for the preservation of the liberties of the people, that the powers which the king had exercised so despotically should be restricted; and a large majority in the House of Commons and a considerable number of the peers were determined upon reform in ecclesiastical matters, but differed widely as to the extent to which it should be carried. A majority of the peers favoured the retention of Episcopacy, but many of this majority, in deference to public opinion, were willing to make some concessions, but none that would endanger the stability of the national Church. In the House of Commons were three parties. The first, composed of the nobility and some of the principal of the gentry, was of the same mind with the majority of the peers; the second was composed of the Presbyterians, who, next to the English Church, constituted the largest ecclesiastical body. This party favoured the continuance of the monarchy, with some limitations, with the hope that the Presbytery would be substituted for the English Church. The third was composed of those known as the Independents; who

were opposed not only to Episcopacy, but to the establishment of any intolerant church, and who favoured a radical reform in the powers of the monarchy, and eventually its abolition.

As the Independents sprang from, and in their progress were strongly supported by, the Congregationalists of Massachusetts, their history is of great interest to the people of this Commonwealth.

The Congregationalists of Massachusetts were characterised by their system of church government and by the discipline they adopted ; which, when explained, attracted large numbers, especially of the middle classes, in England.

From a letter of Cradock to Endicott, to which reference has been made, it is evident that "the manner how to exercise their ministry" was agreed upon by the first ministers, before they left England, and was approved by the principal men of the company.* The discipline of the churches was gradually perfected, and Mr. Cotton, who came over in 1633, is said to have been very instrumental in the work.

The radical changes made from the English Church, as especially shown in the democratic character of the church government, in the qualifications for church-membership, and in the simplicity in the modes of worship, were, for a time, disapproved by the body of the nonconformist ministers in England.

Hutchinson says : "This year, 1637, a number of the Puritan ministers in England wrote to the ministers of

* See page 18.

New England informing them of reports that they had embraced new opinions which they disliked, formerly, and which they in England still judged to be groundless and unwarrantable, viz. : 'that a stinted form of prayer and set liturgy is unlawful; that the children of godly and approved Christians are not to be baptised until their parents be set members of some particular congregation; that the parents themselves, though of approved piety, are not to be received to the Lord's supper until they be admitted for members; that the power of excommunication is in the body of the Church, though the minister should be of another mind; that upon a minister's being dismissed, though unjustly, from his particular congregation, he ceaseth to be a minister; that one minister cannot perform a ministerial act in any but his own congregation; that members of one congregation may not communicate in another.' They add, 'that letters from New England had influenced many in Old to leave their assemblies because of a stinted liturgy, and to absent themselves from the Lord's supper because such as ought to be were not debarred from it.' They, therefore, requested a seasonable review might be taken of the grounds and reasons that had swayed, and sent over, and if they were found to have weight, they would be ready to give the right hand of fellowship; if otherwise, they would animadvert upon them so far as they varied from the truth, etc. The famous Puritan, John Dod, joined in the request. An answer was written by Mr. Cotton, and a more full answer afterwards printed. In some of the points, I suppose the

last two, the ministers of England were misinformed. In some of the others, particularly those which it was thought most difficult to answer, in a few years after, the clergy in England fully concurred with their brethren in New England." *

Afterwards, Baxter, who was a Presbyterian, blamed the Independents, "for making too light of ordination, for their too great strictness in the qualifications of church-members, for their popular form of church government, and their too much exploding of synods and councils." †

Baillie, the distinguished Scotch Presbyterian writer of the period, in 1645, said of independency, "Master Cotton did take it up and transmit it from thence to Master Goodwin (then a leading member of the small clerical representation of Independents in the Westminster Assembly), who did help to propagate it to sundry others in Old England, till now by many hands it is sown thick in divers parts of this kingdom." But Vane had been in England since his return in 1637, and Peters since 1641. Other ministers beside Cotton had, from the beginning, corresponded with their friends in England, and many persons from Massachusetts had visited their native country and promulgated the doctrines of their churches.

Palfrey, in the preface to the last edition of his admirable history of New England, after stating many benefits which had resulted to England from the settlement here, adds: "But such are not the greatest benefactions for

* Hutchinson, I., 80.

† Neal's Hist. of the Puritans, II., 163.

which England is indebted to the community that bears her name. To the Puritans, the Tory Historian Hume ascribed the liberty of England. But the Puritans never struck decisively for English freedom, till Independency obtained the control of the Parliament and Army, in 1645, and it was the pens of learned ministers living in New England that in Old England raised Independency to the position of command. It was Hooker, of Connecticut, and Cotton and Shepard and Allen and Norton and Mather, of Massachusetts that organised the victories of Fairfax and Cromwell. In former times this relation was understood, however now forgotten. We may look for England in England, and find nothing but New England." . . . "The Scots at New Castle, to whom the king retired for safeguard, had a brave occasion to show faith and loyalty; but they kept their wont, and sold their master as Judas did his to the Jews, to the race of New England, the *Independent* salvages." These words of the Tory Bishop Hacket, present, with his own colouring, a specimen of a class of facts familiar to his contemporaries, though they have since slipped out of the histories. *

* "The Congregational or Independent body began to attract attention upon the return of a host of emigrants from New England, with Hugh Peters at their head, on the opening of the Long Parliament;" and that "Lilburne and Burton soon declared themselves adherents of what was called 'The New England Way.'"—Greene's Short Hist. of the English People, 545.

"Hugh Peters acted a part in the said tragedy of the times, no less conspicuous to the world than fatal to himself. That singular enthusiast attempted, among other exploits, to write down the laws of England with design to open a way for the introduction of a system more suitable to the

In January, 1643, the "Root and Branch" bill was passed through both houses of Parliament; and in June, the intention expressed by both houses the preceding year, to undertake a reformation of the Church through an

purpose of the Independents; but happily without success, because the writer's wit was not equal to his malice. And there were then not wanting men, who, having marked their pernicious progress, defended the English jurisprudence with greater powers, while they gave fruitless warning to the nation, that as from New England came hither independence of Churches, there is cause to pray that thence in time may not also come hither arbitrary government in the Commonwealth."—Chalmer's Hist., I., 84.

Peters was on the Commission for Legal Reforms of which Sir Matthew Hale was president.

"For the fruits of Congregational discipline in England, they that walk in that way amongst you might speak far more particularly and largely than I here can do at such a remote distance. But if books and letters and reports do not too much abuse us with false intelligence, the great and gracious and glorious victories, whereby the Lord has wrought salvation for England in these late wars, have been as so many testimonies of the blessing of God upon our way. For the chiefest instruments which God hath delighted to use herein, have been the faith and fidelity, the courage and constancy of Independents."—Mr. John Cotton's reply to Baillie's "Dis-suader." Ed. 1648, p. 103.

"The Congregational cause had obtained a firm footing in New England, and churches were there growing up and flourishing under its auspices. American pamphlets were imported, which disseminated the sentiments of the churches in that quarter. Thus the heresy which had been expelled from England returned with the increased strength of a transatlantic cultivation, and the publications of Cotton, Hooker, Norton, and Mather were circulated throughout England, and, during this writing and disputing period, produced a mighty effect."—Biography of Dr. John Owen by Dr. Orme.

"The importance of the New England States was at once recognised by the Parliamentary Independents who made an effort to bring over their three most eminent ministers, John Cotton, John Davenport, and Thomas

assembly of divines appointed by themselves, was carried into effect, and an ordinance was passed which called into existence the "Assembly of Divines and others" for the reformation of the Church.

The ordinance provided that the Assembly should meet in Westminster Abbey, from which it derived its name of Westminster Assembly. It was purely a creation of Parliament, which reserved the power to adjourn it; and it was to consider only such questions as Parliament should propose, and to assume "no jurisdiction, power, or authority, ecclesiastical or otherwise," except what was expressed in the ordinance.

The assembly consisted of one hundred and twenty-one English ministers, with ten members of the House of Lords, twenty of the Commons, and four ministers and two laymen of the Scottish kirk. A large majority of the Assembly were Presbyterians, and only eight or ten ministers classed as Independents. But of these, Palfrey says, "five, at least, Philip Nye, Thomas Goodwin, William Bridge, Sidrach Simpson, and Jeremiah Burrows were men of undisputed ability." *

Say and Sele, of the House of Lords, and Oliver Cromwell, Vane, Fiennes, St. John, Seldon, and Whitelock, of

Hooker. The effort failed, but in place of the men, books and pamphlets, expository and defensive of the 'New England way,' were discharged in quick succession upon the English public. What gave New England its importance was this—it was the first realisation on a large scale of the principles of Independency."—*Encyclopedia Britannica*, under title, "Independents."

* Palfrey, II., 86.



OLIVER CROMWELL.

the Commons, friends of the Independents, were members representing the Parliament. Palfrey, referring to the Assembly, says, "And if in that council, which was expected to give ecclesiastical unity and stability to the British realm, Scotland gave being, or contributed great force to what was at first the controlling element, to New England may not without reason be traced that other influence which in a short time rose to irresistible ascendancy." *

The strongest religious enthusiasts were the Independents, and the numerous sectaries that had sprung up in all parts of the kingdom when freed from the restraints of the national Church. However much they disagreed in other matters, they were all of one mind, and thoroughly determined against any national Church, whether it be Episcopal or Presbyterian. These classes were strongest in the eastern counties, and it was there Cromwell made his appeal for enlistments, which was met with an enthusiastic response. He made no discrimination in sects in enlisting his men, and appointed as officers those he deemed most capable and enthusiastic in the service, without regard to their rank or station.

Greene, in his short "History of the English People," p. 546, says, "His enlistment of these 'sectaries' was the first direct breach in the old system of conformity." It alarmed the Presbyterians, who were beginning to feel the growing strength of the Independents. In reply to remonstrances against his conduct, Cromwell said, "The

* Palfrey, II., 81, 82.

State, in choosing men to serve it, takes no notice of their opinions. If they be willing faithfully to serve it, that satisfies ;” and to complaints of the character of the officers he had selected, he said, “I had rather have a plain, russet-coated captain, that knows what he fights for, and loves what he knows, than what you call a gentleman, and is nothing else.”

In the meantime, the Independents had so increased that they constituted a majority of the army, and were able, in Parliament, with the assistance of the more liberal of the English Presbyterians, to impose a check upon the extreme measures proposed by the Scotch Commissioners.

Baillie, in the latter part of 1643, said, “The Independents have so managed their affairs that of the officers and soldiers in Manchester’s army, certainly also in the general’s, and, as I hear, in Waller’s likewise, more than two parts are for them ; and these of the far most resolute and confident men for the Parliament party.” In 1644, he said, “The Independent parties, albeit their number in Parliament be very small, yet being prime men, active and diligent, and making it their work to retard all till they be first secured of a toleration for their separate congregations ; and the body of the lawyers, who are another strong party in the House, believing all church government to be part of the civil and parliamentary power, which nature and scripture had placed in them, and to be derived from them to the ministers, so far as they think expedient ; a third party of worldly, profane men, who are extremely affrighted to come under the yoke of eccle-

siastical discipline ; these three kinds, making up two parts of the Parliament at least, there is no hope that ever they will settle the government according to our mind, if they be left to themselves." *

"The truth was that outside of the city and of the assembly there were few who desired to see erected all over England the presbyteries and synods, in which Baillie considered true religion alone could be found. Least of all was Parliament going to surrender to the ministers the power over church government which it had wrested from the hands of Laud. If it had to choose between the two, it would prefer the license of Independency to the unyielding yoke of Presbyterianism, but for the present it hoped to be able to steer a middle course between the two — to satisfy the Scotch by adopting the Presbyterian forms, but retaining the discipline in its own hands, to exercise it for the suppression of fanatics without interfering with the sober Independents." †

The Independent Congregationalists of Massachusetts had watched with intense interest the progress of events. If an intolerant Presbyterian Church should be fastened upon England, they had great cause for fear that attempts would be made to enforce its discipline here.

Meanwhile the Massachusetts ministers bestirred themselves. Their hope was in the success of the English Independents. A short time after the meeting of the Long Parliament the Court of Assistants advised with

* Baillie, II., 361.

† Wakeman; *The Church and the Puritans*, 157.

some of the elders "about some course to serve the providence of God in furthering the work of reformation there (in England), which was now like to be attempted ;" * and in June, 1641, the General Court "thought fit to send some chosen men into England," to, among other things, "be ready to make use of any opportunity God should offer for the good of the country here, as also to give any advice, as it should be required for the settling the right form of discipline there." †

Hugh Peters of the church of Salem, Thomas Weld of the church of Roxbury, with Mr. Hibbens of Boston, were "the persons designated hereto." ‡ There is much evidence to show that it was intended that Peters and Weld should remain permanently in England to render aid to the cause of the Independents. The church of Roxbury hesitated giving its consent and the church of Salem was very unwilling to spare Mr. Peters.§ Chalmers, always inimical to the government and churches of Massachusetts, wrote in 1782, that "the object of their mission at that critical juncture is now known to have been to promote the interest of reformation by stirring up the war and driving it on."||

No men better fitted for such a work could have been selected than Peters and Weld. But little is known of the work of Weld, but from his determination and zeal in the cause as shown here, especially upon the trial of Mrs. Hutchinson, there is no doubt but he was actively engaged

* Winthrop, II., 25.

† Ibid, 31.

‡ Ibid, 25.

§ Ibid, 25, 26.

|| Chalmers, 84.

in promoting the cause for which he was commissioned. Peters preached with fiery zeal to large audiences. During the war he acted as private secretary to Cromwell, and was employed by him in many important missions, and is said to have at one time led, successfully, a brigade.

But the ministers in Massachusetts were doing their part. In 1640, Shepard and Allen, of Massachusetts, wrote a book defending the positions of the New England clergy. Cotton wrote an elaborate treatise, entitled "The Keys of the Kingdom of Heaven, and Power thereof, according to the Word of God," and afterwards a larger work, entitled "The Way of the Churches of Christ in New England, or the Way of Churches walking in Brotherly Equality or coördination without subjection of one Church to another, measured and examined by the Golden Reed of the Sanctuary." These were published in London. An elaborate reply was immediately written by a Presbyterian. Rutherford, one of the Scotch Commissioners, also made a reply, entitled "The Due Right of Presbyteries. . . . Wherein is examined the Way of the Church of Christ in New England." This was replied to by Mr. Hooker. Herle, the prolocutor of the Assembly, wrote a treatise on the Presbyterian side which was answered by Richard Mather, of Dorchester, who also wrote a pamphlet in reply to Rutherford. William Appolonius defended the English Presbyterians in a learned Latin treatise, which was replied to in Latin by Mr. Norton, of Ipswich.* Hugh Peters denominated it "the

* Palfrey, II., 89, 92, and notes.

pamphlet-glutted age." The war of words was principally between the Scotch Presbyterian divines and Massachusetts Independent ministers.

In 1645, three young men educated here for the ministry went to England, Mr. Buckley, Mr. Higginson, and Mr. George Downing. Downing, soon after his arrival in England, was appointed a preacher in Fairfax's army.

Massachusetts also furnished material aid to the English Independents. Winthrop in 1645 writes, " Mr. Israel Stoughton, one of the magistrates, having been in England about merchandise, and returned with good advantage, went for England again the last winter, with divers other of our best military men, and entered into the Parliament's service. Mr. Stoughton was made lieutenant-colonel to Colonel Rainsborrow. Mr. Nehemiah Bourne, a ship carpenter, was major of his regiment, and Mr. John Leverett, son of one of the elders of the church of Boston, a captain of a foot company, and one William Hudson, ensign of the same company, Lioll, surgeon of the Earl of Manchester's life guard. These did good service, and were well approved." *

* Winthrop, II., 245.

CHAPTER XVI.

FRIENDLY RELATIONS BETWEEN MASSACHUSETTS AND THE LONG PARLIAMENT.

THE relations between the colony and the mother country during the existence of the Long Parliament were such as to give great encouragement to the colonists.

Early in 1641, a petition from persons from Massachusetts, then in London, was preferred to the House of Lords, for relief from the restraints which had been put by the king upon ships and passengers for New England ; " whereupon an order was made that we should enjoy all our liberties, etc., according to our patent, whereby our patent, which had been condemned and called in upon an erroneous judgment in a *quo warranto*, was now implicitly revived and confirmed." But Winthrop, with characteristic caution, was careful to add : " This petition was preferred without warrant from our court." * In March, 1643, the Commons passed an ordinance freeing New England from taxation either inward or outward, until the House take further order therein to the contrary, the preamble to which is as follows : " Whereas, the plantations in New England, have, by the blessing of Almighty God,

* Winthrop, II., 42.

had good and prosperous success, without any public charge to this State, and are now likely to prove very happy for the propagation of the gospel in those parts, and very beneficial and commodious to this Kingdom and Nation, the Commons, now assembled in Parliament, do, for the better advancement of those plantations, and the encouragement of the planters to proceed in their undertaking, ordain, etc."

Upon receipt of a copy of the ordinance, the General Court, in May of the same year, passed an order that, "Whereas it hath pleased the Lord, who of His free grace and mercy, hath from time to time taken the care of, and provided for the safety and good of His poor churches and people here in New England, so to move the hearts of the Honourable House of Commons in England as they have been pleased to make a special order in our favour, for acknowledgment of our humble thankfulness, and preserving a grateful remembrance of the honourable respect from that high court, it is ordered, that the said order, being sent to us under the hand of the clerk of the said Honourable House of Commons, shall be entered among our public records, to remain there to posterity."*

At the same court, "there arose a scruple" about taking the first part of the oath of the governor and magistrates, which was, "You shall bear true faith and allegiance to our sovereign Lord King Charles, seeing he had violated the privileges of Parliament, and made war upon them, and thereby had lost much of his Kingdom and

* Mass. Records II., 34.

many of his subjects; whereupon it was thought fit to omit that part of it for the present." *

In November of the same year, 1643, Parliament placed the administration of all the colonies in the hands of a Board of Commissioners, with the Earl of Warwick at its head. Lord Say and Sele, Vane, Pym, and Cromwell were members of it.†

In May, 1644, the General Court ordered, that "what person soever shall, by word, writing, or action, endeavour to disturb our peace, directly or indirectly, by drawing a party, under pretence that he is for the King of England, and such as adjoin with him, against the Parliament, shall be accounted as an offender of an high nature against this Commonwealth, and to be proceeded with either capitally or otherwise, according to the quality and degree of his offence, provided always that this shall not be extended against any merchant, strangers and shipmen that come hither merely for matter of trade and merchandise, albeit they should come from any of those parts that are in the hands of the king, and such as adhere to them against the Parliament, carrying themselves here quietly, and free from raising or nourishing any faction, mutiny or sedition amongst us, as aforesaid."‡

A few months after, one Captain Stagg, commissioned by the Earl of Warwick, in a vessel carrying twenty-four guns, entered Boston Harbour. Finding there a ship from Bristol, which place was then held for the king, he com-

* Winthrop, II., 100.

† Ibid, 159 and n.

‡ Mass. Records, II., 69.

manded her master to surrender to him, which he did. This caused much excitement on shore, and Winthrop wrote to the captain of the vessel to know by what authority he had acted. Stagg produced his commission, which authorised him to capture vessels from ports in the occupation of the king's party, on the high seas and harbours. Winthrop ordered him to take the paper to Governor Endicott in Salem, to be considered at a meeting of the magistrates. The last Lord's day some of the elders "had in their sermons reproved this proceeding, and exhorted the magistrates, etc., to maintain the people's liberties, which were, they said, violated by this act; and that a commission could not supersede a patent. And at this meeting some of the magistrates and some of the elders were of the same opinion, and that the captain should be forced to restore the ship."*

The subject was carefully considered by the magistrates, and was concluded by allowing Captain Stagg to retain possession of his prize.

The colonists claimed that, under the charter, they had exclusive authority to establish and maintain throughout the colony local government, and to make and enforce such laws as they deemed expedient, which did not in spirit contravene the laws of England; and that, as incident thereto, they were entitled to the control of their harbours. The magistrates felt that the act of Stagg was an interference with their authority, but an act which they could condone. In deference to the Parlia-

* Winthrop, II., 181, 182.

ment they desired to condone it. Their only question upon it was how far such a condonation would be regarded as a precedent. They concluded that "this could be no precedent to bar us from opposing any commission or other foreign power that might indeed tend to our hurt and violate our liberty; for the Parliament had taught us that *salus populi is suprema lex*." "If the Parliament should hereafter be of a malignant spirit, etc., then, if we have strength sufficient, we may make use of *salus populi* to withstand any authority from thence to our hurt." The controlling reason for their decision is given by Winthrop. "If we who have so openly declared our affection to the cause of the Parliament by our prayers, fastings, etc., should now oppose their authority, or do anything that might make such an appearance, it would be laid hold on by those in Virginia and the West Indies, to confirm them in their rebellious course, and it would grieve all our godly friends in England, or any other of the Parliament's friends."*

A short time after, one Richardson, master of a vessel from London, commissioned by the Parliament's lord admiral, threatened to capture in Boston Harbour a Dartmouth ship in the king's service. Winthrop, then deputy governor, sent an order for Richardson to come on shore, which he declined to obey upon some pretext, whereupon a shot was fired from the shore battery which cut his rigging, and boats with forty stalwart men were started for the Dartmouth ship, upon which Richardson "came ashore

* Winthrop, II., 182, 183.

and acknowledged his error, and his sorrow for what he had done." He was discharged with an order "to pay a barrel of powder, and to satisfy the officers and soldiers we had employed." Upon inspection of his commission it was claimed to be defective, "therefore we forbade him to meddle with any ship in our harbour."*

One act could be condoned, but it must not be repeated.

At the next annual session of the General Court, in May, 1645, a petition was prepared and sent to the Parliament setting forth the facts regarding the seizure by Captain Stagg, and praying "that no such attempt may be made hereafter upon any ships in our harbours, or of any of our confederates in New England." †

The temporary success of the Presbyterians in Parliament encouraged some persons to make an attempt for the overthrow of the church system of Massachusetts, and, at the instigation of William Vassall, then of Scituate in Plymouth, a petition was prepared and presented to the General Court in May, 1647, signed by Dr. Childe, Samuel Maverick, Thomas Fowle, Thomas Burton, John Smith, David Yale, and John Dand, which set forth many things defamatory of the churches and Government, with the request, "that the distinctions which were maintained here both in civil and church estate might be taken away, and that we might be wholly governed by the laws of England." An early reply was requested, and the threat was made that, if the requests were not complied with, Parliament would be petitioned on the subject.

* Winthrop, II., 194, 195.

† Mass. Records, II., 121.

"But the court being then near at an end, and the matter being very weighty, they referred the further consideration thereof to the next session. And whereas a law was drawn up, and ready to pass, for allowing non-freemen equal power with the freemen in all town affairs, and to some (non) freemen of such estate, etc., their votes in election of magistrates: it was thought fit to defer this also to the next session." *

In the summer of 1646, information was received that the Commissioners for Plantations had granted to Gorton and his associates authority to occupy Narraganset Bay, which included Shawomet. This caused great indignation among the people of Massachusetts, and at an adjournment of the General Court in November, this act of the commissioners and the petition of Dr. Childe and others were considered. The elders were present by invitation. First, the constitutional relations of the colony with England were discussed by the assistants, a majority of whom made a formal declaration of their opinions, in which they held, "that by our charter, we had absolute power of government, for thereby we have

* Winthrop, II., 261-263.

Probably the subject of modifying the legislation of the colony in regard to the non-freemen had been considered, of which there is no record, and the proposition, as stated by Winthrop, was designed not so much out of regard to the claims of the non-freemen here, as to render aid to the Independents in England, who were striving for toleration, and who by their enemies were tauntingly referred to the Government here as foreshadowing what they said the result would be in England, if the Independents should be successful.

power to make laws, to erect all sorts of magistracy, to correct, punish, pardon, govern, and rule the people absolutely." They admitted that they owed a certain general allegiance to Parliament, but none that would interfere with the absolute right of self-government under their charter.*

The elders desired time for consideration, and the next day "they presented their advice" in writing. "We conceive," they said, "that in point of government, we have granted by patent such full and ample power of choosing all officers that shall command and rule over us, of making all laws and rules of our obedience, and of a full and final determination of all cases in the administration of justice, that no appeals or other ways of interrupting our proceedings do lie against us." †

After thus defining their rights, the court sent for the petitioners to be present to answer for the seditious language contained in their petition. The petitioners being all present but Maverick, "demanded what should be laid to their charge," upon which a committee was appointed to prepare charges, who reported as follows: "The court doth charge Dr. Childe, etc., with divers false and scandalous passages in a certain paper, entitled a remonstrance and petition (exhibited by them to this court in the third month last) against the churches of Christ and the civil government here established, derogating from the honour and authority of the same, and tending to sedition," to which were added specifications of the

* Winthrop, II., 278, 279.

† Ibid, 282.

offences. A lengthy discussion between the petitioners and the court followed. Dr. Childe, among other things, claimed that the charter made the grantees a corporation of England, and that they were consequently subject to the laws of England. To this and other claims of the petitioners against the authority of the colony, Winthrop said very significantly, "Among the Romans, Grecians, and other nations, colonies have been esteemed rather than towns, yea than many cities, for they have been the foundations of great Commonwealths. And it was a fruit of much pride and folly in these petitioners to despise the day of small things." *

The petitioners persisting in their statements, were fined in sums of from £10 to £50 each. They were offered, if they would acknowledge "their miscarriage," that their fines should be "freely remitted. But they remaining obstinate, the court declared their sentence as is before expressed. Upon which they all appealed to the Parliament, etc., and tendered their appeal in writing. The court received the paper, but refused to accept it, or to read it in the court." †

Childe and Dand made preparations to go to England in a vessel that was to sail in about a week, to prosecute the appeal; and, meanwhile, the signatures of about twenty-five persons, who had not been admitted as freemen, were obtained to a petition to Parliament; and many of them, according to Winthrop, were men of no estate, who were only temporarily here. The assistants caused a search to

* Winthrop, II., 285, 291.

† Ibid, 291, 292.

be made of Childe's and Dand's studies as they were about to leave, and found among Dand's papers the petition above referred to, and another signed by the seven persons who had petitioned the General Court, complaining of the treatment they had received, and asking, among other things, that the churches may be settled, "according to the reformation of England;" that the laws of England may be established here; that a general governor may be appointed, and the oath of allegiance be commanded. Upon this, Childe and his associates were tried, and Childe and Dand were fined two hundred pounds each, Maverick one hundred and fifty, and two others one hundred each.*

At the session of the General Court in which the petition of Childe and his associates was considered, it was deemed necessary that the Government should be specially represented in England, not only to oppose the appeal claimed by the petitioners, but to seek a review of the order Gorton had obtained, allowing him and his associates to remain at Shawomet. It was first thought best to send over Mr. Norton, of Ipswich, and Governor Winthrop. "Mr. Peters had written to the Governor to come over and assist in the Parliament's cause, etc.," but it was feared if he went over "he would be called into the Parliament and so detained." Finally choice was made of Mr. Winslow, of Plymouth, who had before ably represented Massachusetts in England.† The General Court prepared, and sent by Mr. Winslow, a petition to the Earl

* Winthrop, II., 292, 293. Mass. Records, III., 113.

† Ibid, 283.

of Warwick and the other Commissioners for Foreign Plantations, in which was made the special request that they would "confirm our liberties, granted to us by charter, by leaving delinquents to our just proceedings, and discountenancing our enemies and disturbers of our peace, or such as molest our people there, upon pretence of injustice."*

But upon the arrival of Childe in England with his petitions, affairs were changed. "Pride's Purge" had given the Independents control in Parliament, and the appellants failed to obtain any encouragement or aid in their project, and the Government here was officially informed that the commissioners "intended not thereby to encourage any appeals from your justice, nor to restrain the bounds of your jurisdiction to a narrower compass than is held forth by your letters patent, but to leave you with all that freedom and latitude that may in any respect be duly claimed by you."†

In the meantime, a dispute between Connecticut and Massachusetts was brought before the Confederate commissioners. Connecticut, through Fenwick, in 1644, purchased the fort and lands at Saybrook. One of the conditions of the purchase was, that Fenwick should, for ten years, receive certain duties to be collected from all vessels passing out of the Connecticut River. The inhabitants of Springfield refused to pay the duty upon the ground, principally, that the revenue received therefrom was part payment for the fort; to which they, being under

* Winthrop, II., 298.

† Ibid, 319, 320.

the jurisdiction of Massachusetts, could not be called upon to contribute.

The penalty for refusing to pay the duty was confiscation. Connecticut deferred imposing the penalty until the question of the validity of the duty should be passed upon by the Confederate commissioners. The subject was brought before the commissioners by Connecticut, in 1646, but as Mr. Pynchon was absent, and the Massachusetts commissioners had received no instructions upon it from their government, its consideration was postponed to the next meeting. The General Court of Massachusetts, at a session in November of the same year, considered the matter, and placed upon record its reasons why such a duty should not be levied upon vessels from Springfield, and claimed that, if Connecticut had the right to exercise such a power, Massachusetts had the right "to imitate them in the like kind," but desired it "be forborne on both sides." *

At a special meeting of the commissioners held at Boston in July, 1647, which was called on account of anticipated trouble with the Indians, the subject of the imposts was considered and debated at length, the reasons on both sides being given. As Massachusetts and Connecticut were interested parties, the commissioners from Plymouth and New Haven alone acted. They decided in favour of the claim of Connecticut ; but voted that any deputy from Massachusetts colony or from Springfield should have liberty to reopen the matter at the next meeting of the com-

* Mass. Records, II., 182, 183.

missioners ; and that if they did reopen it they should not be prejudiced by the decision then made.

The decision created much ill-feeling in Massachusetts, and at the next annual session of the General Court, in May, 1648, a committee was appointed "to peruse the articles of confederation with the United Colonies, as also the acts that have passed the commissioners, which may seem either to confound the power of our General Court, or so interfere with it as may, in a short time, prove not only prejudicial, but exceedingly uncomfortable." The committee was instructed to "draw up what remedies they can think of, with such arguments as may be prevalent with all whom it may concern," which the Massachusetts commissioners should present "to the rest of the commissioners of the United Colonies." * The committee, in accordance with its instructions, agreed upon certain propositions, which were presented to the commissioners at their next meeting in Plymouth, in September. The propositions were to limit the powers of the commissioners in several particulars, that they hold their meetings biennially instead of annually, and, inasmuch as Massachusetts bore five times the expense of any other colony, in the proportion adopted in the Articles of Confederation, they desired that Massachusetts should have an additional commissioner ; and that the apportionment of expenses should not be in accordance with the numbers of population. The committee further asked if it were not reasonable to be declared, that whereas the orders of the

* Mass. Records, II., 245.

Confederate commissioners were only advisory, that any colony which did not see fit to follow such advice should not be considered offensive or violating any articles of the confederation. The subject of imposts was again debated ; and the Massachusetts commissioners produced an order from their General Court reciting the decision against Springfield, and laying an impost, similar to the one Connecticut had laid against Saybrook, on articles exported from or imported into Boston by the inhabitants of either of the other three confederate colonies.* The commissioners forwarded to Massachusetts a remonstrance against the order, and "desired to be spared in all further agitations concerning Springfield." The General Court of Massachusetts repealed the order the next year.

* Mass. Records, II., 269.

CHAPTER XVII.

THE CAMBRIDGE PLATFORM.

THE earlier churches were organised severally under similar governments and rules of discipline, but their relations to each other were not defined nor provided for. The difficulty of holding the churches together was soon seen, unless some efficient mode for their concurrent action should be provided, which would substantially secure their uniformity.

Hutchinson says that, in the several plantations, "they formed themselves into distinct churches, one after another, but seem to have had no settled scheme or plan of church government until Mr. Cotton came over in 1633. His praise was in all the churches, as the principal projector of the plan of the government of the New England churches, which, from that time, took the name of Congregational. This was called the middle way between Brownism and Presbyterianism." *

The importance of providing measures to secure uniformity in the churches became so apparent that the General Court, in March, 1635, as has been before related, passed an order, entreating the elders and brethren of every church to "consult and advise of one uniform order

* Hutchinson, I., 370.

of discipline in the churches, agreeable to the Scriptures." There is no public record of what was done under this order, but the proceedings on the petition of Childe and others called the attention of the people to the necessity of formal and authoritative action on the subject ; and the General Court, in May, 1646, declared "that the right form of church government and discipline, being agreed part of the Kingdom of Christ upon earth, therefore the settling and establishing thereof by the joint and public agreement and consent of churches, and by the sanction of civil authority, must needs greatly conduce to the honour and glory of our Lord Jesus Christ, and to the settling and safety of Church and Commonwealth, where such a duty is diligently attended and performed ;" and that inasmuch as "some differences of opinion and practice of one church from another do already appear amongst us ; and others (if not timely prevented) are like speedily to ensue, and this not only in lesser things, but even in points of no small consequence." . . . "Therefore for the further healing and preventing of the further growth of the said differences, and upon other grounds, and for other ends aforementioned ; although this court make no question of their lawful power by the word of God to assemble the churches, or their messengers, upon occasion of counsel or anything which may concern the practice of the churches, yet because all members of the churches, though godly and faithful, are not yet clearly satisfied in this point, it is, therefore, thought expedient for the present occasion not to make use of that power, but rather to express our

desire that the churches will answer the desire of this present General Court, that there be a public assembly of the elders and other messengers of the several churches within this jurisdiction, who may come together and meet at Cambridge, upon the first day of September now next ensuing, there to discuss, dispute, and clear up, by the word of God, such questions of church government and discipline in the things aforementioned, or any other, as they shall think needful and meet, and to continue so doing until they, or the major of them, shall have agreed and consented upon one form of government and discipline, for the main and substantial parts thereof, as that which they judge agreeable to the Holy Scriptures." It was further desired, that said assembly report, in writing, what shall be agreed upon, to the governor or deputy governor, who shall present the same to the next General Court; "to the end, that the same, being found agreeable to the word of God, it may receive from the said General Court such approbation as is meet." It was further ordered, that the churches of the other confederate colonies be requested to send representatives to the said assembly.*

All the churches of the colony were represented in the assembly thus called at Cambridge, except those of Boston, Salem, and Concord. The elder of Concord was unable to attend, and no other suitable person could be agreed upon. Boston and Salem took offence at the order of the court, on the grounds that the elders had a right to assemble without the consent of the civil authorities; and

* See Mass. Records, II., 154-157.

that the order was procured by some of the elders "to the intent to make ecclesiastical laws to bind the churches, and to have the sanction of the civil authority put upon them, whereby men should be forced, under penalty, to submit to them, whereupon they concluded that they should betray the liberty of the churches if they should consent to such a synod."*

The subject was discussed in Boston for two Lord's days before the meeting of the assembly, but a vote could not be obtained to take part in the synod. On the day after the meeting of the assembly, Mr. Norton, of Ipswich, officiated at the Boston lecture, and, in his sermon, discussed the questions at issue; and the next Lord's day, after much debate, it was voted that the elders and three of the brethren should represent the church of Boston in the assembly.† The synod, after a session of about fourteen days, adjourned to the eighth day of June next, "in regard of winter drawing on, and few of the elders of other colonies were present."‡ The synod again met at the time to which it was adjourned. Governor Bradford was present to represent the church of Plymouth. On the second day, Mr. Ezekiel Rogers, of Rowley, preached in the forenoon, and "in the afternoon Mr. Eliot preached to the Indians in their own language before all the assembly."§ But, owing to a prevailing epidemic, the synod was again adjourned, and reassembled on the fifteenth day of August, 1648, when, in the words of Winthrop, it

* Winthrop, II., 269.

† Ibid, 271.

‡ Ibid, 269, 270.

§ Ibid, 308.

"went on comfortably." The synod finished its work "in less than fourteen days." The synod agreed upon "A Platform of Church Discipline;" which was largely declaratory of the discipline of the churches as had been before practised by agreement and usage.*

According to the platform, church-membership was allowed only to those who, upon examination, were proved to have repented of sin and had faith in Jesus Christ. The examination of candidates was publicly made before the church; but, "in case any, through excessive fear, or other infirmity, be unable to make their personal relation of their spiritual estate in public," they might be examined by the elders in private; and admitted upon their report and approval.† The form of admission "is the visible covenant, agreement or consent, whereby they give up themselves to the Lord, to the observing of the ordinances of Christ, together in the same society, which is usually called the 'Church covenant.'"[‡] This covenant might be taken by subscribing, or giving verbal or silent consent. Baptism followed the taking of the covenant, but children of whom one parent was a member of the church could be baptised in their infancy or minority, only one baptism being allowed; but such, desiring to become members of the church after arriving at years of discretion, were subjected to the same examination as others. "Yet these church-members that were so born, or received in their childhood, before they are capable of

* Winthrop, II., 330, 331. For the Platform, see Mather's *Magnalia*, Vol. II.

† Platform, XII., s. 2 and 3.

‡ Ibid, IV., s. 3.

being made partakers of full communion, have many privileges, which others (not church-members) have not ; they are in covenant with God, have the seal thereof upon them, viz. : baptism, and so if not regenerated, yet are in a more hopeful way of attaining regenerating grace, and all the spiritual blessings, both of the covenant (of their parents) and seal ; they are also under church watch, and consequently subject to the reprehensions, admonitions, and censures thereof, for their healing and amendment, as need shall require." *

Persons removing their habitation, upon letters testimonial and of dismissal, could be admitted to the church of their next abode, but that church, in its discretion, could require a new profession of faith and repentance.

The power of excommunication resided in each church. If one member offended another it could be condoned by an acknowledgment of his repentance to the brother offended. If he refused or neglected to do this the offended brother could admonish him privately ; if this did not bring him to repentance the offended brother could admonish him in the presence of others, which, if not effectual, then complaint through the elders could be made to the church, "and if the church discern him to be willing to hear, yet not fully convinced of his offence, as in case of heresy, they are to dispense to him a public admonition ; which, declaring the offender to lie under the public offence of the church, doth thereby withhold or suspend him from the holy fellowship of the

* Platform, XIII., s. 7.

Lord's Supper, till his offence be removed by penitent confession. If he still continue obstinate, they are to cast him out by excommunication." But if the offence be more public, and of a more heinous and criminal nature, then the church, "without such gradual proceeding," is to excommunicate him. "While the offender remains excommunicate, the church is to refrain from all member-like communion with him in spiritual things, and also from all familiar communion with him in civil things, further than the necessity of natural or domestical or civil relations do require; and are, therefore, to forbear to eat and drink with him, that he may be ashamed."*

It further declared that a church should consist of only such a number as could conveniently meet together in one place, and not of a smaller number than could conveniently perform the work of the church.

The officers consisted of a pastor and a teacher, known as the elders; ruling elders and deacons; also deaconesses, but none were ever appointed.

The pastor's special work was to exhort, the teacher's to expound and instruct in doctrine. Either of them could baptise or execute the censures of the church. The difference in their duties was but shadowy, and in a few years the office of teacher was discontinued. The duties of the ruling elders were to admit members approved by the church, to call special meetings of the church, "to be guides and leaders to the church, in all matters whatsoever pertaining to church administration and actions," and

* Platform, XIV., s. 2 and 5.

"to visit and pray over the sick brethren." This office was also afterwards discontinued.

Deacons were also elected, "to receive the offerings of the church, gifts given to the church, and to keep the treasury of the church, and therewith to serve the tables which the church is to provide for," but not to perform any of the duties of the elders.*

To each church was given the power to elect all its officers, and "in case of manifest unworthiness and delinquency" to depose them.† They were "to be ordained by imposition of hands and prayer, with which at the ordination of elders, fasting also is to be joined." "This ordination we account nothing but the solemn putting a man into his place and office in the church, whereunto he had right before by election; being like the installing of a magistrate in the Commonwealth." In churches which have elders, they are to ordain by imposition of hands, but in churches which have none, the duty may be performed by some of the brethren chosen for the purpose by the church, or, if the church desire it, may be performed by elders of other churches. It was also advised that neighbouring churches be conferred with in the selection of officers of a church. It was further declared, that "church officers are officers to one church, even that particular over which the Holy Ghost hath made them overseers," and that "he that is clearly released from his office relation unto that church whereof he was a minister cannot be looked at as an officer, nor perform any act of office in

* Platform, VI., VII.

† Ibid, VIII., s. 6.

any other church, unless he be again orderly called unto office ; which when it shall be, we know nothing to hinder ; but imposition of hands also in his ordination ought to be used towards him again." * But in case of absence or sickness of a minister, his place could be temporarily supplied by a minister of another church ; and members of one church were allowed to visit and partake of the communion in other churches. The platform declares that, "although churches may be distinct, and therefore may not be confounded one with another, and equal, and therefore have not dominion one over another, yet all the churches ought to preserve church communion one with another." †

* Platform, IX.

† The following extract from the Body of Liberties shows the origin of a distinctive feature of Congregational polity :

"For the preventing and removing of error and offence that may grow and spread in any of the churches in this Jurisdiction, and for the preserving of truth and peace in the several churches within themselves, and for the maintenance and exercise of brotherly communion, amongst all the churches in the country, It is allowed and ratified by the authority of this General Court as a lawful liberty of the churches of Christ, That once in every month of the year (when the season will bear it) it shall be lawful for the ministers and elders of the churches near adjoining together, with any other of the brethren with the consent of the churches to assemble by course in each several church one after another. To the intent after the preaching of the word by such a minister as shall be requested thereto by the elders of the church where the assembly is held, the rest of the day may be spent in public Christian conference about the discussing and resolving of any such doubts and cases of conscience concerning matter of doctrine, or worship, or government of the church as shall be propounded by any of the brethren of that church, with leave also to any other brother to propound his objections or answers for further satisfaction according to the word of God. Provided that the whole action be guided and moder-

This was to be done in various ways, by mutual care for the welfare of each, by consultations for counsel and advice, by assisting each other in case of need, by inter-communion and admonition. A church which had offended was to be admonished by a neighbouring church, which, if not hearkened to, other neighbouring churches were to be called upon to join in the admonition. If the offending church still remained obstinate, then a council of churches was to be called to consider the offence. If convicted by the council, and the conviction approved by the several churches, then the sentence of excommunication was to be passed, which was not to apply to those members of the excommunicated churches who did not consent to the offence of the church. They could be admitted without letters of recommendation and dismissal into other churches.*

Synods, although declared not to be absolutely necessary, were approved in extreme cases, "to debate and

ated by the elders of the church where the assembly is held, or by such others as they shall appoint. And that no thing be concluded and imposed by way of authority from one or more churches upon another, but only by way of brotherly conference and consultations. That the truth may be searched out to the satisfying of every man's conscience in the sight of God according His word. And because such an assembly and the work thereof can not be duly attended to if other lectures be held in the same week, it is therefore agreed with the consent of the churches, That in that week when such an assembly is held, all the lectures in all the neighbouring churches for that week shall be forborne. That so the public service of Christ in this more solemn assembly may be transacted with greater diligence and attention."

* Platform, XV.

determine controversies of faith, and cases of conscience, to clear from the word holy directions for the holy worship of God, and good government of the Church, to bear witness against maladministration and corruption in doctrine or manners in any particular church, and to give directions for the reformation thereof; not to exercise church censures in way of discipline, nor any other act of church authority or jurisdiction."

The power of the magistrate in ecclesiastical matters was the subject most difficult for the synod to define. The platform declares that "the power and authority of magistrates is not for the restraining of churches or any other good works, but for helping in and furthering thereof;" that it was not in the power of magistrates to compel individuals to become church-members and to partake at the Lord's table, or meddle with the work proper to church officers, nor exercise "things merely inward, and so not subject to his cognisance and views, as unbelief, hardness of heart, erroneous opinions not vented, but only such things as are acted by the outward man." But "idolatry, blasphemy, heresy, venting corrupt and pernicious opinions that destroy the foundation, open contempt of the word preached, profanation of the Lord's day, disturbing the peaceful administration and exercise of the worship and holy things of God, and the like, are to be restrained and punished by civil authority," and "if any church, one or more, shall grow schismatical, rending itself from the communion of other churches, or shall walk incorrigibly and obstinately in any corrupt way of

their own, contrary to the rule of the word ; in such case, the magistrate is to put forth his coercive power as the matter shall require." *

The synod also adopted "The Confession of Faith" of the Westminster assembly, but declined to accept its platform of church government and discipline.

The platform adopted was presented to the General Court, which, in October, 1649, ordered that it be submitted to the several churches, with the request that they should report at the next General Court their approval or disapproval of it. At the next General Court, many of the churches having made no report, they were all requested to make report at the next session. Many of the churches reported their approval, but some presented objections against some of the particulars of it, which objections were referred to the elders, "to be cleared and removed." The elders made their report in writing to the court in October, 1651, when the court gave "their testimony to the said book of discipline, that for the substance thereof it is what we have practiced and do believe." †

* Platform, XVII.

† Mass. Records, Vol. IV., Part I., 57, 58.

CHAPTER XVIII.

BEGINNINGS OF WITCHCRAFT IN THE COLONY, AND DEATH OF WINTHROP.

MANY instances showing the superstitions of the time are related by Winthrop. Physical troubles of Mrs. Hutchinson and Mrs. Dyer are described in detail as punishments for their heresies.* Many sudden deaths by drowning and otherwise are regarded as judgments upon the deceased for the profligacy of their lives; a great combat between a mouse and a snake at Watertown is related, in which the mouse was the victor, and Mr. Winthrop states, "The pastor of Boston, Mr. Wilson, a very sincere, holy man, hearing of it, gave this interpretation: that the snake was the devil, the mouse was a poor, contemptible people which God had brought hither, which should overcome Satan here, and dispossess him of his kingdom;" † and it is stated that at a session of the synod at Cambridge, whilst Mr. Allen, of Dedham, was preaching, a snake came in at the door, and Mr. Thompson, one of the elders of Braintree, trod upon the head of it and killed it, and Winthrop states, "This being so remarkable and nothing falling out but by Divine Provi-

* Winthrop, I., 261, 271.

† Ibid, 81.

dence, it is out of doubt, the Lord discovered somewhat of His mind in it. The serpent is the devil, the synod the representative of the churches of Christ in New England. The devil had formerly and lately attempted their disturbance and dissolution, but their faith in the seed of the woman overcame him and crushed his head." *

Mr. Winthrop also states as "a thing worthy of observation," that Winthrop, the younger, had in his library a volume in which the Greek Testament, the Psalms, and the Common Prayer were bound together, and that "he found the common prayer eaten with mice, every leaf of it, and not any of the two others touched, nor any other of his books, though they were above a thousand. †"

Mr. Winthrop also gives expression to the general belief in witchcraft which prevailed in that period; and an account of the trial, conviction and execution of a woman for witchcraft. He states that when Mrs. Hutchinson dwelt in Boston there were circumstances which "gave cause of suspicion of witchcraft, for it was certainly known that Hawkins's wife (who continued with her and was her bosom friend) had much familiarity with the devil in England, where she dwelt at St. Ives, where divers ministers and others resorted to her, and found it true. ‡"

The first mention of an accusation of witchcraft in the colonies was in March, 1647. In his journal of that date Winthrop writes, "One ———, of Windsor, arraigned and executed at Hartford for a witch." §

* Winthrop, II., 330.

† Ibid, 9.

‡ Ibid, 20.

§ Ibid, 307.

The next year, 1648, he relates that one Margaret Jones, of Charlestown, was indicted, convicted, and executed for witchcraft. The only reference to the case made in the records of the General Court was in May, 1648, and is as follows : " The court desire the course which hath been taken in England for discovery of witches, by watching them a certain time. It is ordered that the best and surest way may forthwith be put in practice, to begin this night if it may be, being the 18th of the 3d month, and that the husband may be confined to a private room and be also then watched." * In June, 1648, Winthrop states, " At this court, one Margaret Jones, of Charlestown, was indicted and found guilty of witchcraft, and hanged for it. The evidence against her was, first, that she was found to have such a malignant touch, as many persons (men, women, and children) whom she stroked or touched with any affection or displeasure, or, etc., were taken with deafness, or vomiting, or other violent pains or sickness ; second, she practised physic, and her medicines being such things as (by her own confession) were harmless, as aniseed, liquors, etc., yet had extraordinary violent effects ; third, she would use to tell such as would not make use of her physic that they would never be healed, and accordingly their diseases and hurts continued, with relapse against the ordinary course, and beyond the apprehension of all physicians and surgeons ; fourth, some things which she foretold came to pass accordingly ; other things she could tell of (as secret speeches, etc.) which she had

* Mass. Records, II., 242.

no ordinary means to come to the knowledge of ; five, she had (upon search) an apparent teat. . . . Six, in the prison, in the clear daylight, there was seen in her arms, she sitting on the floor, . . . a little child, which ran from her into another room, and the officer following it, it was vanished. The like child was seen in two other places, to which she had relation ; and one maid that saw it fell sick upon it, and was cured by the said Margaret, who used means to be employed to that end. Her behaviour at her trial was very intemperate, lying notoriously, and railing upon the jury and witnesses, etc., and in the like distemper she died," and he added, " The same day and hour she was executed there was a very great tempest at Connecticut, which blew down many trees, etc." *

On the twenty-eighth day of the same month of June, Winthrop states, "The *Welcome* of Boston, about 300 tons, riding before Charlestown, having in her eighty horses and 120 tons of ballast, in calm weather fell a rolling, and continued so about twelve hours, so as though they brought a great weight to the one side, yet she would keel to the other, and so deep as they feared her foundering. It was then the time of the county court at Boston, and the magistrates hearing of it, and withal that one Jones (the husband of the witch lately executed) had desired to have passage in her to Barbadoes, and could not have it without such payment, etc., they sent the officer, presently, with a warrant to apprehend him, one of them saying that the ship would stand still as soon as he

* Winthrop, II., 326.

was in prison. And as the officer went, and was passing over the ferry, one said to him, 'You can tame men sometimes, can't you tame this ship?' The officer answered, 'I have that here, that (it may be) will tame her, and make her to be quiet;' and with that showed his warrant. And at the same instant she began to stop, and presently staid, and after he was put in prison moved no more." *

This is the first account of a conviction and execution for witchcraft in Massachusetts under that terrible delusion which pervaded all Christian countries; and under which many thousands of persons of both sexes, in England, France, Germany, Italy, Spain, Switzerland, Sweden and Norway, were burned, drowned or hung.

" Be not too swift in casting the first stone,
Nor think New England bears the guilt alone;
This sudden burst of wickedness and crime
Was but the common madness of the time,
When in all lands that lie within the sound
Of Sabbath bells, a witch was burned or drowned."

The belief in witchcraft was universal. The belief was that the devil, at times possessed himself of a human being, and, through the agency of his victim, inflicted incalculable misery and suffering upon whole neighbourhoods; and we can but faintly conceive of the awful terror and consternation which pervaded a whole community upon the rumour of occurrences which suggested the probability of such a visitation by the Evil One upon one of its members, or of the dire imaginings it excited.

* Winthrop, II., 327.

Chief Justice Sir Matthew Hale, in his charge to the jury on the trial of Rose Cullender and Amy Duny for witchcraft in 1665, gave testimony to the belief of his time. He said: "That there were such creatures as witches he made no doubt at all. For first, the Scriptures had affirmed so much. Secondly, the wisdom of all nations had provided laws against such persons, which is an argument in their confidence of such a crime. And such has been the judgment of this kingdom, as appears by an act of Parliament which hath provided punishments proportionate to the quality of the offence."*

The execution of Margaret Jones was one of the last acts which Winthrop records. In a short time after it he was taken with an illness of which he died March 26, 1649, at the age of sixty-three.

His death marked the close of the first and a distinctive period in the history of the colony. It was the formative period, in which, as has been shown, the civil and religious affairs of the colony were developed into definite and substantially permanent forms.

No one can read the history of this period without being deeply impressed with the influence which Winthrop exerted in the settlement of the many important questions which necessarily presented themselves in construing the different provisions of the charter, and in deciding upon the policies of the Government under the varying and oftentimes perplexing circumstances of the time. His wisdom and prudence were largely instrumental in the

*State Trials, VI., 687.

settlement of the colony. In essentials he was firm and immovable, but in matters of conduct, and in all the details to a desired end, he was most conciliatory. To his memory, more than to that of any of his worthy associates, Massachusetts owes a lasting debt of gratitude.

APPENDIX.

THE CHARTER OF THE COLONY OF MASSACHUSETTS BAY. 1629.

CHARLES, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To all to whom these presents shall come, Greeting. *Whereas*, our most dear and royal father, king James, of blessed memory, by his Highness letters-patent bearing date at Westminster, the third day of November, in the eighteenth year of his reign, hath given and granted unto the Council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing of New England in America, and to their successors and assigns for ever, all that part of America, lying and being in breadth, from forty degrees of northerly latitude from the equinoctial line, to forty-eight degrees of the said northerly latitude inclusively, and in length, of and within all the breadth aforesaid, throughout the main lands from sea to sea; together also with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishing, mines, and minerals, as well

royal mines of gold and silver as other mines and minerals, precious stones, quarries, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, and preëminences, both within the said tract of land upon the main, and also within the islands and seas adjoining: *Provided* always, That the said islands, or any the premises by the said letters-patent intended and meant to be granted, were not then actually possessed or inhabited by any other christian prince or state, nor within the bounds, limits, or territories of the southern colony, then before granted by our said dear father, to be planted by divers of his loving subjects in the south parts. 'To have and to hold, possess and enjoy all and singular the aforesaid continent, lands, territories, islands, hereditaments, and precincts, seas, waters, fishings, with all, and all manner their commodities, royalties, liberties, preëminences, and profits that should from thenceforth arise from thence, with all and singular their appurtenances and every part and parcel thereof, unto the said council and their successors and assigns for ever, to the sole and proper use, benefit, and behoof of them the said council, and their successors and assigns, forever: To be holden of our said most dear and royal father, his heirs and successors, as of his manor of East-Greenwich in the county of Kent, in free and common soccage, and not in capite nor by knight's service: Yielding and paying therefor to the said late king, his heirs and successors, the fifth part of the ore of gold and silver which should from time to time and at all times then after happen to be found, gotten, had, and obtained in, at, or within any of the said lands, limits, territories, and precincts, or in or within any part or parcel thereof, for or in respect of all and all manner of duties, demands and services whatsoever, to be done, made, or paid to our said dear

father the late king, his heirs and successors, as in and by the said letters-patent (amongst sundry others clauses, powers, privileges, and grants therein contained,) more at large appeareth : And whereas, the said council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing of New England in America, have by their deed indented, under their common seal, bearing date the nineteenth day of March last past, in the third year of our reign, given, granted, bargained, sold, enfeoffed, aliened, and confirmed to Sir Henry Rosewell, Sir John Young, Knights, Thomas Southcott, John Humphrey, John Endecott, and Simon Whetcombe, their heirs and assigns, and their associates for ever, all that part of New England in America aforesaid, which lies and extends between a great river there, commonly called Monomack, alias Merrimack, and a certain other river there, called Charles river, being in the bottom of a certain bay there, commonly called Massachusetts, alias Mattachusetts, alias Massatusetts bay, and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles on the south part of the said Charles river, or of any, or every part thereof; and also all and singular the lands and hereditaments whatsoever, lying and being within the space of three English miles to the southward of the southernmost part of the said bay called Massachusetts, alias Mattachusetts, alias Massatusetts bay; and also all those lands and hereditaments whatsoever, which lie, and be within the space of three English miles to the northward of the said river called Monomack, alias Merrimack, or to the northward of any and every part thereof, and all lands and hereditaments whatsoever; lying within the limits aforesaid, north and south in latitude and breadth, and in length and longitude, of and within all the breadth aforesaid,

throughout the main lands there, from the Atlantic and western sea and ocean on the east part, to the south sea on the west part; and all lands and grounds, place and places, soils, woods and wood grounds, havens, ports, rivers, waters, fishings, and hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof; and also all islands lying in America aforesaid, in the said seas or either of them on the western or eastern coasts or parts of the said tracts of land, by the said indenture mentioned to be given, granted, bargained, sold, enfeoffed, aliened, and confirmed, or any of them; and also all mines and minerals, as well royal mines of gold and silver as other mines and minerals whatsoever, in the said lands and premises, or any part thereof; and all jurisdictions, rights, royalties, liberties, freedoms, immunities, privileges, franchises, preëminences, and commodities whatsoever, which they, the said council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing of New England in America, then had, or might use, exercise, or enjoy, in or within the said lands and premises by the said indenture mentioned to be given, granted, bargained, sold, enfeoffed, and confirmed, or in, or within any part or parcel thereof: To have and to hold, the said part of New England in America, which lies and extends and is abutted as aforesaid, and every part and parcel thereof; and all the said islands, rivers, ports, havens, waters, fishings, mines, minerals, jurisdictions, franchises, royalties, liberties, privileges, commodities, hereditaments, and premises whatsoever, with the appurtenances unto the said Sir Henry Rosewell, Sir John Young, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, their heirs and assigns, and their associates, to the only proper and absolute use and behoof of the said Sir Henry Rosewell,

Sir John Younge, Thomas Southcott, John Humfrey, John Endecott and Simon Whetcombe, their heirs and assigns, and their associates for ever more; to be holden of us, our heirs and successors, as of our manor of East-Greenwich, in the county of Kent, in free and common soccage, and not in capite, nor by knight's service; Yielding and paying therefor unto us, our heirs and successors, the fifth part of the ore of gold and silver, which shall from time to time, and at all times hereafter, happen to be found, gotten, had, and obtained in any of the said lands, within the said limits, or in or within any part thereof, for, and in satisfaction of all manner duties, demands, and services whatsoever to be done, made, or paid to us, our heirs or successors, as in and by the said recited indenture more at large may appear. Now know ye, that we, at the humble suit and petition of the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, and of others whom they have associated unto them, Have, for divers good causes and considerations, us moving, granted and confirmed, and by these presents of our especial grace, certain knowledge, and mere motion, do grant and confirm unto the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, and to their associates hereafter named; (videlicet) Sir Richard Saltonstall, Knight, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, their heirs and assigns, all the said part of New England in America, lying and extending between the

bounds and limits in the said recited indenture expressed, and all lands and grounds, place and places, soils, woods and wood grounds, havens, ports, rivers, waters, mines, minerals, jurisdictions, rights, royalties, liberties, freedoms, immunities, privileges, franchises, preëminences, hereditaments, and commodities whatsoever, to them the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, their heirs and assigns, and to their associates, by the said recited indenture, given, granted, bargained, sold, enfeoffed, aliened, and confirmed, or mentioned, or intended thereby to be given, granted, bargained, sold, enfeoffed, aliened, and confirmed: To have and to hold, the said part of New England in America, and other the premises hereby mentioned to be granted and confirmed, and every part and parcel thereof with the appurtenances, to the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, William Vassall, William Pinchion, and George Foxcrofte, their heirs and assigns for ever, to their only proper and absolute use and behoof for evermore; to be holden of us, our heirs and successors, as of our manor of East-Greenwich aforesaid, in free and common soccage, and not in capite, nor by knight's service; and also yielding and paying therefor to us, our heirs and successors, the fifth part only of all ore of gold and silver, which from time to time, and at all times hereafter shall be there gotten, had, or obtained, for all services, exactions and demands whatsoever, according to the tenure and

reservation in the said recited indenture expressed. And further, know ye, that of our more especial grace, certain knowledge, and mere motion, We have given and granted, and by these presents, do for us, our heirs and successors, give and grant under the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcroft, their heirs and assigns, all that part of New England in America, which lies and extends between a great river there, commonly called Monomack River, alias Merrimack River, and a certain other river there, called Charles River, being in the bottom of a certain bay there, commonly called Massachusetts, alias Mattachusetts, alias Massatusetts Bay; and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles on the south part of the said river, called Charles River, or of any or every part thereof: and also all and singular the lands and hereditaments whatsoever, lying and being within the space of three English miles to the southward of the southernmost part of the said bay, called Massachusetts, alias Mattachusetts, alias Massatusetts Bay: and also all those lands and hereditaments whatsoever, which lie and be within the space of three English miles to the northward of the said river, called Monomack, alias Merrimack, or to the northward of any and every part thereof, and all lands and hereditaments whatsoever, lying within the limits aforesaid, north and south in latitude and breadth, and in length and longitude, of and

within all the breadth aforesaid, throughout the main lands there, from the Atlantic and western sea and ocean on the east part, to the south sea on the west part; and all lands and grounds, place and places, soils, woods, and wood-grounds, havens, ports, rivers, waters, and hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof; and also all islands in America aforesaid, in the said seas, or either of them, on the western or eastern coasts, or parts of the said tract of lands hereby mentioned to be given and granted, or any of them; and all mines and minerals, as well royal mines of gold and silver as other mines and minerals whatsoever, in the said lands or premises, or any part thereof, and free liberty of fishing in or within any the rivers or waters within the bounds and limits aforesaid, and the seas thereunto adjoining; and all fishes, royal fishes, whales, balan, sturgeons, and other fishes of what kind or nature soever, that shall at any time hereafter be taken in or within the said seas or waters, or any of them, by the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, their heirs or assigns, or by any other person or persons whatsoever there inhabiting by them, or any of them, to be appointed to fish therein. Provided always, That if the said lands, islands, or any other the premises herein before mentioned, and by these presents intended and meant to be granted, were at the time of the granting of the said former letters - patent,

dated the third day of November, in the eighteenth year of our said dear father's reign aforesaid, actually possessed or inhabited by any other christian prince or state, or were within the bounds, limits or territories of that southern colony, then before granted by our said late father, to be planted by divers of his loving subjects in the south parts of America, That then this present grant shall not extend to any such parts or parcels thereof, so formerly inhabited, or lying within the bounds of the southern plantation as aforesaid, but as to those parts or parcels so possessed or inhabited by such christian prince or state, or being within the bounds aforesaid shall be utterly void, these presents, or any thing therein contained, to the contrary notwithstanding. To have and to hold, possess and enjoy the said parts of New England in America, which lie, extend, and are abutted as aforesaid, and every part or parcel thereof; and all the islands, rivers, ports, havens, waters, fishings, fishes, mines, minerals, jurisdictions, franchises, royalties, liberties, privileges, commodities, and premises whatsoever, with the appurtenances, unto the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, their heirs and assigns for ever, to the only proper and absolute use and behoof of the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George

Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcroft, their heirs and assigns for evermore: To be holden of us, our heirs and successors, as of our manor of East-Greenwich, in our county of Kent, within our realm of England, in free and common soccage, and not in capite, nor by knight's service; and also yielding and paying therefor to us, our heirs and successors, the fifth part only of all ore of gold and silver, which from time to time, and at all times hereafter, shall be there gotten, had, or obtained, for all services, exactions, and demands whatsoever; provided, always, and our express will and meaning is, that only one-fifth part of the gold and silver ore above mentioned, in the whole, and no more be reserved or payable unto us, our heirs and successors, by colour or virtue of these presents, the double reservations or rentals aforesaid, or anything herein contained notwithstanding. And forasmuch, as the good and prosperous success of the plantation of the said parts of New England aforesaid intended by the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcroft, to be speedily set upon, cannot but chiefly depend, next under the blessing of Almighty God, and the support of our royal authority upon the good government

of the same, to the end that the affairs and businesses which from time to time shall happen and arise concerning the said lands, and the plantation of the same may be the better managed and ordered, we have further hereby of our especial grace, certain knowledge and mere motion, given, granted and confirmed, and for us, our heirs and successors, do give, grant, and confirm unto our said trusty and well-beloved subjects Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endicott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, And for us, our heirs and successors, we will and ordain that the said Sir Henry Rosewell, Sir John Young, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Cradock, George Harwood, Increase Noell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, and all such others as shall hereafter be admitted and made free of the company and society hereafter mentioned, shall from time to time, and at all times forever hereafter be, by virtue of these presents, one body corporate and politick in fact and name, by the name of the Governor and Company of the Mattachusetts Bay in New England, and them by the name of the Governor and Company of the Mattachusetts Bay in New England, one body

politick and corporate, in deed, fact and name; We do for us, our heirs and successors, make, ordain, constitute, and confirm by these presents, and by that name they shall have perpetual succession, and that by the same name they and their successors shall and may be capable and enabled as well to implead, and to be impleaded, and to prosecute, demand, and answer, and be answered unto, in all and singular suits, causes, quarrels, and actions, of what kind or nature soever. And also to have, take, possess, acquire, and purchase any lands, tenements, or hereditaments, or any goods or chattels, and the same to lease, grant, demise, alien, bargain, sell, and dispose of as other our liege people of this our realm of England, or any other corporation or body politick of the same may lawfully do. And further, that the said governor and company, and their successors, may have forever one common seal, to be used in all causes and occasions of the said company, and the same seal may alter, change, break, and new make, from time to time at their pleasures. And our will and pleasure is, and we do hereby for us, our heirs and successors, ordain and grant, that from henceforth forever, there shall be one Governor, one Deputy Governor, and eighteen Assistants of the same company, to be from time to time constituted, elected and chosen out of the freemen of the said company, for the time being, in such manner and form as hereafter in these presents is expressed, which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of, for, and concerning the said lands and premises hereby mentioned to be granted and the plantation thereof, and the government of the people there. And for the better execution of our royal pleasure and grant in this behalf, we do, by these presents, for us, our heirs and

successors, nominate, ordain, make, and constitute, our well-beloved the said Matthew Cradock to be the first and present Governor of the said company, and the said Thomas Goffe to be Deputy Governor of the said company, and the said Sir Richard Saltonstall, Isaac Johnson, Samuel Aldersey, John Ven, John Humfrey, John Endecott, Simon Whetcombe, Increase Noell, Richard Pery, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Adams, Thomas Hutchins, John Browne, George Foxcrofte, William Vassall and William Pinchion to be the present Assistants of the said Company, to continue in the said several offices respectively for such time, and in such manner, as in and by these presents is hereafter declared and appointed. And further, we will, and by these presents, for us, our heirs and successors, do ordain and grant That the governor of the said company for the time being, or in his absence by occasion of sickness or otherwise, the deputy governor for the time being, shall have authority from time to time upon all occasions, to give order for the assembling of the said company, and calling them together to consult and advise of the businesses and affairs of the said company, and that the said governor, deputy governor, and assistants of the said company, for the time being, shall or may once every month, or oftener at their pleasures, assemble and hold and keep a court or assembly of themselves, for the better ordering and directing of their affairs, and that any seven or more persons of the assistants, together with the governor, or deputy governor so assembled, shall be said, taken, held, and reputed to be, and shall be a full and sufficient court or assembly of the said company, for the handling, ordering, and despatching of all such businesses and occurrences as shall from time to time happen, touching or concerning the said company or

plantation; and that there shall or may be held and kept by the governor or deputy governor of the said company, and seven or more of the said assistants for the time being, upon every last Wednesday in Hilary, Easter, Trinity, and Michas terms respectively for ever, one great general and solemn assembly, which four general assemblies shall be styled and called the four great and general courts of the said company; in all and every, or any of which said great and general courts so assembled, we do for us, our heirs and successors, give and grant to the said governor and company, and their successors, that the governor, or in his absence the deputy governor of the said company for the time being, and such of the assistants and freemen of the said company as shall be present, or the greater number of them so assembled, whereof the governor or deputy governor and six of the assistants at the least to be seven, shall have full power and authority to choose, nominate, and appoint, such and so many others as they shall think fit, and that shall be willing to accept the same, to be free of the said company and body, and them into the same to admit; and to elect and constitute such officers as they shall think fit and requisite, for the ordering, managing, and despatching of the affairs of the said governor and company and their successors; and to make laws and ordinances for the good and welfare of the said company, and for the government and ordering of the said lands and plantation, and the people inhabiting and to inhabit the same, as to them from time to time shall be thought meet, so as such laws and ordinances be not contrary or repugnant to the laws and statutes of this our realm of England. And our will and pleasure is, and we do hereby for us, our heirs and successors, establish and ordain, that yearly, once in the year, for ever hereafter, namely, the last

Wednesday in Easter term, yearly, the governor, deputy governor, and assistants of the said company and all other officers of the said company shall be, in the general court or assembly to be held for that day or time, newly chosen for the year ensuing by such greater part of the said company, for the time being, then and there present, as is aforesaid. And if it shall happen the present governor, deputy governor, and assistants, by these presents appointed, or such as shall hereafter be newly chosen into their rooms, or any of them, or any other of the officers to be appointed for the said company, to die, or to be removed from his or their several offices or places before the said general day of election (whom we do hereby declare for any misdemeanor or defect to be removeable by the governor, deputy governor, assistants, and company, or such greater part of them in any of the public courts to be assembled as is aforesaid) that then, and in every such case, it shall and may be lawful, to and for the governor, deputy governor, assistants, and company aforesaid, or such greater part of them so to be assembled as is aforesaid, in any of their assemblies, to proceed to a new election of one or more others of their company in the room or place, rooms or places of such officer or officers so dying or removed, according to their discretions, and, immediately upon and after such election and elections made of such governor, deputy governor, assistant or assistants, or any other officer of the said company, in manner and form aforesaid, the authority, office, and power, before given to the former governor, deputy governor, or other officer and officers so removed, in whose stead and place new shall be so chosen, as to him and them, and every of them, cease and determine. Provided also, and our will and pleasure is, that as well such as are by these presents appointed to be the

present governor, deputy governor, and assistants of the said company, as those that shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before they undertake the execution of their said offices and places respectively, take their corporal oaths for the due and faithful performance of their duties in their several offices and places before such person or persons as are by these presents hereunder appointed to take and receive the same; that is to say, the said Matthew Cradock, who is hereby nominated and appointed the present governor of the said company, shall take the said oaths before one or more of the masters of our court of chancery for the time being, unto which master or masters of the chancery we do by these presents give full power and authority to take and administer the said oath to the said governor accordingly; and after the said governor shall be so sworn, then the said deputy governor and assistants, before by these presents nominated and appointed, shall take the said several oaths to their offices and places respectively belonging, before the said Matthew Cradock, the present governor, so formerly sworn as aforesaid. And every such person as shall be at the time of the annual election, or otherwise, upon death or removal, be appointed to be the new governor of the said company, shall take the oaths to that place belonging, before the deputy governor, or two of the assistants of the said company at the least, for the time being: and the new elected deputy governor and assistants, and all other officers to be hereafter chosen as aforesaid from time to time, to take the oaths to their places respectively belonging, before the governor of the said company for the time being, unto which said governor, deputy governor, and assistants, we do by these presents give full power and authority to give and administer the said

oaths respectively, according to our true meaning herein before declared, without any commission or further warrant to be had and obtained of us, our heirs or successors, in that behalf. And we do further, of our especial grace, certain knowledge, and mere motion, for us, our heirs and successors, give and grant to the said governor and company, and their successors for ever by these presents, that it shall be lawful and free for them and their assigns, at all and every time and times hereafter, out of any our realms or dominions whatsoever, to take, lead, carry, and transport, for and into their voyages, and for and towards the said plantation in New England, all such and so many of our loving subjects, or any other strangers that will become our loving subjects, and live under our allegiance, as shall willingly accompany them in the same voyages and plantation; and also shipping, armour, weapons, ordnance, munition, powder, shot, corn, victuals, and all manner of clothing, implements, furniture, beasts, cattle, horses, mares, merchandizes, and all other things necessary for the said plantation, and for their use and defence, and for trade with the people there, and in passing and returning to and fro, any law or statute to the contrary hereof in any wise notwithstanding; and without paying or yielding any custom or subsidy, either inward or outward, to us, our heirs or successors, for the same, by the space of seven years from the day of the date of these presents. Provided, that none of the said persons be such as shall be hereafter by especial name restrained by us, our heirs or successors. And, for their further encouragement, of our especial grace and favour, we do by these presents, for us, our heirs and successors, yield and grant to the said governor and company, and their successors, and every of them, their factors and assigns, that they and every of them shall be free and quit from all taxes,

subsidies, and customs, in New England, for the like space of seven years, and from all taxes and impositions for the space of twenty and one years, upon all goods and merchandizes at any time or times hereafter, either upon importation thither, or exportation from thence into our realm of England, or into any other our dominions by the said governor and company, and their successors, their deputies, factors, and assigns, or any of them; except only the five pounds per centum due for custom upon all such goods and merchandizes as after the said seven years shall be expired, shall be brought or imported into our realm of England, or any other of our dominions, according to the ancient trade of merchants, which five pounds per centum only being paid, it shall be thenceforth lawful and free for the said adventurers, the same goods and merchandizes to export and carry out of our said dominions into foreign parts, without any custom tax or other duty to be paid to us, our heirs or successors, or to any other officers or ministers of us, our heirs and successors. Provided, that the said goods and merchandizes be shipped out within thirteen months, after their first landing within any part of the said dominions. And we do for us, our heirs and successors, give and grant unto the said governor and company, and their successors, that whensoever or so often as any custom or subsidy shall grow due or payable unto us, our heirs, or successors, according to the limitation and appointment aforesaid, by reason of any goods, wares, or merchandizes to be shipped out, or any return to be made of any goods, wares, or merchandize unto or from the said parts of New England hereby mentioned to be granted as aforesaid, or any the lands or territories aforesaid, that then, and so often, and in such case, the farmers, customers, and officers of our customs of England and Ireland, and every of them for the

time being, upon request made to them by the said governor and company, or their successors, factors, or assigns, and upon convenient security to be given in that behalf, shall give and allow unto the said governor and company, and their successors, and to all and every person and persons free of that company, as aforesaid, six months time for the payment of the one half of all such custom and subsidy as shall be due and payable unto us, our heirs and successors, for the same; for which these our letters patent, or the duplicate, or the enrolment thereof, shall be unto our said officers a sufficient warrant and discharge. Nevertheless, our will and pleasure is, that if any of the said goods, wares, and merchandise, which be, or shall be at any time hereafter landed or exported out of any of our realms aforesaid, and shall be shipped with a purpose not to be carried to the parts of New England aforesaid, but to some other place, that then such payment, duty, custom, imposition, or forfeiture, shall be paid, or belong to us, our heirs and successors, for the said goods, wares and merchandize, so fraudulently sought to be transported, as if this our grant had not been made nor granted. And we do further will, and by these presents, for us, our heirs, and successors, firmly enjoin and command, as well the treasurer, chancellor and barons of the exchequer, of us, our heirs and successors, as also all and singular the customers, farmers, and collectors of the customs, subsidies, and impost, and other the officers and ministers of us, our heirs and successors whatsoever, for the time being, that they and every of them, upon the shewing forth unto them of these letters patent, or the duplicate or exemplification of the same, without any other writ or warrant whatsoever from us, our heirs or successors, to be obtained or sued forth, do and shall make full, whole, entire, and due allowance and clear discharge unto the said governor

and company, and their successors, of all customs, subsidies, impositions, taxes and duties whatsoever, that shall or may be claimed by us, our heirs and successors, of or from the said governor and company, and their successors, for or by reason of the said goods, chattels, wares, merchandizes, and premises to be exported out of our said dominions, or any of them, into any part of the said lands or premises hereby mentioned, to be given, granted, and confirmed, or for, or by reason of any of the said goods, chattels, wares, or merchandizes to be imported from the said lands and premises hereby mentioned, to be given, granted, and confirmed into any of our said dominions, or any part thereof as aforesaid, excepting only the said five pounds per centum hereby reserved and payable after the expiration of the said term of seven years as aforesaid, and not before: And these our letters patent, or the enrolment, duplicate, or exemplification of the same shall be for ever hereafter, from time to time, as well to the treasurer, chancellor and barons of the exchequer of us, our heirs and successors, as to all and singular the customers, farmers, and collectors of the customs, subsidies, and imposts of us, our heirs and successors, and all searchers, and other the officers and ministers whatsoever of us, our heirs and successors, for the time being, a sufficient warrant and discharge in this behalf. And further our will and pleasure is, and we do hereby for us, our heirs and successors, ordain and declare, and grant to the said governor and company, and their successors, that all and every the subjects of us, our heirs or successors, which shall go to and inhabit within the said lands and premises hereby mentioned to be granted, and every of their children which shall happen to be born there, or on the seas in going thither, or returning from thence, shall have and enjoy all liberties and immunities of

free and natural subjects within any of the dominions of us, our heirs or successors, to all intents, constructions, and purposes whatsoever, as if they and every of them were born within the realm of England. And that the governor and deputy governor of the said company for the time being, or either of them, and any two or more of such of the said assistants as shall be thereunto appointed by the said governor and company at any of their courts or assemblies to be held as aforesaid, shall and may at all times, and from time to time hereafter, have full power and authority to minister and give the oath and oaths of supremacy and allegiance, or either of them, to all and every person and persons, which shall at any time or times hereafter go or pass to the lands and premises hereby mentioned to be granted to inhabit in the same. And we do of our further grace, certain knowledge and mere motion, give and grant to the said governor and company, and their successors, that it shall and may be lawful, to and for the governor or deputy governor, and such of the assistants and freemen of the said company for the time being as shall be assembled in any of their general courts aforesaid, or in any other courts to be specially summoned and assembled for that purpose, or the greater part of them (whereof the governor or deputy governor, and six of the assistants to be always seven) from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions, and instructions, not contrary to the laws of this our realm of England, as well for settling of the forms and ceremonies of government and magistracy, fit and necessary for the said plantation, and the inhabitants there, and for naming and settling of all sorts of officers, both superiour and inferiour, which they shall find needful for that government and plantation, and the distin-

guishing and setting forth of the several duties, powers, and limits of every such office and place, and the forms of such oaths warrantable by the laws and statutes of this our realm of England, as shall be respectively ministered unto them for the execution of the said several offices and places; as also for the disposing and ordering of the elections of such of the said officers as shall be annual, and of such others, as shall be to succeed in case of death or removal, and ministering the said oaths to the new elected officers, and for impositions of lawful fines, mulcts, imprisonment, or other lawful correction, according to the course of other corporations in this our realm of England, and for the directing, ruling, and disposing of all other matters and things, whereby our said people inhabitants there, may be so religiously, peaceably, and civilly governed as their good life and orderly conversation may win and incite the natives of country, to the knowledge and obedience of the only true God and Saviour of mankind, and the christian faith, which in our royal intention, and the adventurers' free profession, is the principal end of this plantation. Willing, commanding, and requiring, and by these presents for us, our heirs, and successors, ordaining and appointing, that all such orders, laws, statutes and ordinances, instructions and directions, as shall be so made by the governor, or deputy governor of the said company and such of the assistants and freemen as aforesaid, and published in writing, under their common seal, shall be carefully and duly observed, kept, performed, and put in execution, according to the true intent and meaning of the same; and these our letters patent, of the duplicate or exemplification thereof, shall be to all and every such officers, superiour and inferiour, from time to time, for the putting of the same orders, laws, statutes, and ordinances, instructions, and directions, in

due execution against us, our heirs and successors, a sufficient warrant and discharge. And we do further, for us, our heirs and successors, give and grant to the said governor and company, and their successors by these presents, that all and every such chief commanders, captains, governors, and other officers and ministers, as by the said orders, laws, statutes, ordinances, instructions, or directions of the said governor and company for the time being, shall be from time to time hereafter employed either in the government of the said inhabitants and plantation, or in the way by sea thither, or from thence, according to the natures and limits of their offices and places respectively, shall from time to time hereafter forever, within the precincts and parts of New England hereby mentioned to be granted and confirmed, or in the way by sea thither, or from thence, have full and absolute power and authority to correct, punish, pardon, govern, and rule all such the subjects of us, our heirs and successors, as shall from time to time adventure themselves in any voyage thither or from thence, or that shall at any time hereafter, inhabit within the precincts and parts of New-England aforesaid, according to the orders, laws, ordinances, instructions, and directions aforesaid, not being repugnant to the laws and statutes of our realm of England as aforesaid. And we do further, for us, our heirs and successors, give and grant to the said governor and company, and their successors, by these presents, that it shall and may be lawful, to and for the chief commanders, governors, and officers of the said company for the time being, who shall be resident in the said part of New England in America, by these presents granted, and others there inhabiting by their appointment and direction, from time to time, and at all times hereafter for their special defence and safety, to encounter, expulse,

repel, and resist by force of arms, as well by sea as by land, and by all fitting ways and means whatsoever, all such person and persons, as shall at any time hereafter, attempt or enterprise the destruction, invasion, detriment, or annoyance to the said plantation or inhabitants, and to take and surprise by all ways and means whatsoever, all and every such person and persons, with their ships, armour, munition, and other goods, as shall in hostile manner invade or attempt the defeating, of the said plantation, or the hurt of the said company and inhabitants: Nevertheless, our will and pleasure is, and we do hereby declare to all Christian kings, princes and states, that if any person or persons which shall hereafter be of the said company or plantation, or any other by license or appointment of the said governor and company for the time being, shall at any time or times hereafter, rob, or spoil, by sea or by land, or do any hurt, violence, or unlawful hostility to any of the subjects of us, our heirs or successors, or any of the subjects of any prince or state, being then in league and amity with us, our heirs and successors, and that upon such injury done and upon just complaint of such prince or state or their subjects, we, our heirs and successors shall make open proclamation within any of the parts within our realm of England commodious for that purpose, that the person or persons having committed any such robbery or spoil, shall within the term limited by such a proclamation, make full restitution or satisfaction of all such injuries done, so as the said princes or others so complaining, may hold themselves fully satisfied and contented; and that if the said person or persons, having committed such robbery or spoil, shall not make, or cause to be made, satisfaction accordingly, within such time so to be limited, that then it shall be lawful for us, our heirs and suc-

cessors, to put the said person or persons out of our allegiance and protection, and that it shall be lawful and free for all princes to prosecute with hostility, the said offenders, and every of them, their and every of their procurers, aiders, abettors, and comforters in that behalf: Provided also, and our express will and pleasure is, and we do by these presents for us, our heirs and successors ordain and appoint that these presents shall not in any manner enure, or be taken to abridge, bar, or hinder any of our loving subjects whatsoever, to use and exercise the trade of fishing upon that coast of New England in America, by these presents mentioned to be granted; but that they, and every, or any of them, shall have full and free power and liberty to continue and use their said trade of fishing upon the said coast, in any the seas thereunto adjoining or any arms of the seas or salt water rivers where they have been wont to fish, and to build and set up upon the lands by these presents granted, such wharves, stages, and work-houses as shall be necessary for the salting, drying, keeping, and packing up of their fish, to be taken or gotten upon that coast; and to cut down, and take such trees and other materials there growing, or being, or shall be needful for that purpose, and for all other necessary casements, helps, and advantage concerning their said trade of fishing there, in such manner and form as they have been heretofore at any time accustomed to do, without making any wilful waste or spoil, anything in these presents contained to the contrary notwithstanding. And we do further, for us, our heirs and successors, ordain and grant to the said governor and company, and their successors by these presents, that these our letters patent shall be firm, good, effectual, and available in all things, and to all intents and constructions of law, according to our true meaning hereinbefore declared, and shall be construed, reputed, and

adjudged in all cases most favourably on the behalf, and for the benefit and behoof of the said governor and company and their successors; although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants, by us or any of our progenitors or predecessors to the aforesaid governor or company before this time made, in these presents is not made; or any statute, act, ordinance, provision, proclamation, or restraint to the contrary thereof, heretofore had, made, published, ordained, or provided, or any other matter, cause, or thing whatsoever to the contrary thereof in any wise notwithstanding.

IN witness whereof, we have caused these our letters to be made patent.

Witness ourself, at Westminster, the fourth day of March, in the fourth year of our reign.

Per Breve de Privato Sigillo.

WOLSELEY.

Prædictus Matthæus Cradocke Juratus est de Fide et Obedientia Regi et Successoribus suis, et de Debita Executione Officii Gubernatoris juxta Tenorem Præsentium, 18^o Martii, 1628.* Coram me Carolo Cæsare Milite in Cancellaria Mro.

CHAR. CÆSAR.

The Great Seal of England appendant by a party-coloured silk string.

* 1629, new style.

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